



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 10.b

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

FROM: Edward Dion, Village Attorney

DATE: December 01, 2020

TITLE: **Ordinance 2020-07** – AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A NEW CHAPTER XX OF THE BISCAYNE PARK LAND DEVELOPMENT CODE ENTITLED “CONSTRUCTION” RELATING TO LIMITATIONS ON CONSTRUCTION AND CONSTRUCTION RELATED ACTIVITIES; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITIES FOR SECURITY AND MAINTENANCE; PROVIDING FOR PERMITTED DAYS AND HOURS OF WORK; PROVIDING FOR FENCING REQUIREMENTS; PROVIDING FOR CONSTRUCTION DUMPSTER REQUIREMENTS; PROVIDING FOR REQUIREMENTS DURING WEATHER EMERGENCIES; PROVIDING FOR TEMPORARY TOILET REQUIREMENTS; PROVIDING FOR LIMITATIONS ON PARKING OF CONSTRUCTION VEHICLES; PROVIDING FOR BOND REQUIREMENTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; DELETING SECTIONS 10.4.8. AND 10.4.10 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

First Hearing

Background

The Village Commission recognizes the need to regulate construction activities and construction sites, as the secondary impacts of construction activities often adversely affect the residents’ quiet and peaceful enjoyment of their properties, present safety and security concerns, and can be unsightly if not maintained.

Therefore, the proposed ordinance was prepared with the intent to regulate construction related activities and construction sites within the Village. The proposed ordinance will create a new chapter to the Village's Land Development Code, to be titled "Construction", and will:

- Provide detailed definitions;
- Impose a legal duty for owners performing construction or having a construction site to determine whether conditions created or maintained on his or her property violate the Code, and impose actual or constructive knowledge of any such violation;
- Provide for construction site security and maintenance;
- Limit the days and hours for construction work;
- Provide construction fence requirements;
- Provide for maintenance of construction dumpsters;
- Provide requirements for weather emergencies;
- Provide for screening and set backs for temporary toilets;
- Limit parking of construction vehicles and equipment;
- Provide for bond requirements for work that, in the opinion of the Building Official, appears probable that, in the course of construction, that the work involved will leave debris or damage to the Village median; and
- Provide for enforcement and penalties.

On November 16th, 2020, the Village Planning Board, as the local planning agency for the Village, reviewed and considered the draft ordinance, and has recommended that the Village Commission adopt the ordinance, as amended. The amendments proposed by the Planning Board are reflected in red text, with strikethroughs denoting deletions, and underlines denoting additions.

Resource Impact

- Village Attorney labor
- Advertisement

Attachment(s)

- Ordinance 2020-07

Prepared by: Roseann Prado, Village Clerk

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ORDINANCE NO. 2020-07

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A NEW CHAPTER XX OF THE BISCAYNE PARK LAND DEVELOPMENT CODE ENTITLED “CONSTRUCTION” RELATING TO LIMITATIONS ON CONSTRUCTION AND CONSTRUCTION RELATED ACTIVITIES; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITIES FOR SECURITY AND MAINTENANCE; PROVIDING FOR PERMITTED DAYS AND HOURS OF WORK; PROVIDING FOR FENCING REQUIREMENTS; PROVIDING FOR CONSTRUCTION DUMPSTER REQUIREMENTS; PROVIDING FOR REQUIREMENTS DURING WEATHER EMERGENCIES; PROVIDING FOR TEMPORARY TOILET REQUIREMENTS; PROVIDING FOR LIMITATIONS ON PARKING OF CONSTRUCTION VEHICLES; PROVIDING FOR BOND REQUIREMENTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; DELETING SECTIONS 10.4.8. AND 10.4.10 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE; 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 (“Village”) 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 recognizes the need to regulate construction activities and construction sites, as the secondary impacts of construction often adversely affect the residents’ quiet and peaceful enjoyment of their properties, present safety and security concerns, and can be unsightly if not maintained; therefore, the Village Commission finds that the adoption of this Ordinance is required to protect the health, safety and welfare of the residents of the Village; and

WHEREAS, on November 16th, 2020, the Village Planning Board, as the local planning agency for the Village, held its hearing on this proposed Ordinance with due public notice and input; and

WHEREAS, on December 01, 2020 the Village Commission held a first reading and public hearing of this proposed Ordinance; and

WHEREAS, on January 05, 2021 the Village Commission held a second reading and public reading of this proposed Ordinance with due public notice and input.

1 NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAYNE PARK,
2 FLORIDA AS FOLLOWS:

3
4 **Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this
5 reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

6
7 **Section 2. Amendments to the Land Development Code.** Chapter XX of the Land
8 Development Code of Ordinances, Village of Biscayne Park, Florida is hereby adopted by adding sections
9 to be numbered _____, which sections read as follows:

10
11 **CHAPTER XX – CONSTRUCTION**

12
13 **Sec. XX.1 - Definitions.**

14
15 The following words, terms and phrases, when used in this article, shall have the meanings ascribed
16 to them in this section, except where the context clearly indicates a different meaning:

17
18 Construction dumpster mean any container, receptacle, compactor unit, trailer, roll-off, or similar unit
19 with or without wheels that is used for temporary storage, containment, or transport of construction and
20 demolition debris, which includes rock, metal and other materials which are heavy in weight or substantial
21 in size, used in connection with a construction and/or demolition project.

22
23 Construction fence means a temporary chain-link fence erected along the perimeter of a construction
24 site as more specifically provided under this Chapter.

25
26 Construction site includes all sites where new construction, remodeling, or additions take place, and
27 are visible from the right of way other than exclusively interior work, which is not visible from the exterior
28 of the premises. Work performed on any of the following shall not be considered a construction site for
29 purposes of this Chapter: driveways, windows, roofs, doors, paint, or any such work deemed by the Village
30 Building Official to be of such minor nature as to not fall within the purview of this Chapter.

31
32 Construction vehicle(s) shall include, but not be limited to, the following: Semi-trucks, semi-trailers,
33 truck cabs, excavators, backhoes, bulldozers, dump trucks, cement mixers, cranes, power shovels, well
34 drillers, buses, wreckers, tow trucks, tractor crane, and any similar vehicle.

35
36 ~~Dumpster means a container constructed of such material and in such manner as to hold solid waste
37 and trash and other such items without breaking or collapsing.~~

38
39 Litter shall include, without limitation, all rubbish, refuse, waste material, garbage, including but not
40 limited to the following; waste composed or animal, fish, fowl fruit or vegetable matter, dead animals,
41 putrescible and non-putrescible solid waste (except body wastes), glass, cans bottles, discarded or
42 abandoned machinery, equipment or parts thereof, discarded or abandoned motor vehicles or parts thereof,
43 parts of broken furniture, furniture not designed for outdoor use, stoves or other appliances and industrial
44 wastes.

45
46 Secure, in reference to items, includes fastening down or removing all hazardous objects such as
47 construction shacks, temporary toilets, roofing tile, building materials, trash, forms, insecure structures,
48 temporary electric service poles, and protection of exposed glass areas with storm shutters. The term
49 "secure," as applied to site access, includes protecting the construction site, during the hours as prescribed

1 herein, by way of a locked fence surrounding the perimeter of the site and/or the provision of a security
2 guard.

3
4 *Solid waste* means garbage, trash, yard trash (except for compost piles), litter, cuttings from
5 vegetation, refuse, paper, bottles, rags, hazardous waste, construction and demolition debris, industrial
6 waste, or other discarded materials, including domestic and commercial building material waste, as further
7 defined in Section 2.2.22 of the Biscayne Park Land Development Code.

8
9 **Sec. XX.2. – Applicability and Property Owner Responsibility.**

10 This Chapter shall only apply to construction activities sites. For the purposes of this Chapter, the
11 Village finds and determines that the property owner of a construction site, or the person who is
12 performing construction on his or her property, has an obligation to know whether conditions created or
13 maintained on his or her property violates this Chapter, and therefore is deemed to have actual or
14 constructive knowledge of any such violation. The property owner has a legal duty to determine whether
15 conditions created or maintained on his or her property violate this Chapter, and to correct such violations,
16 even if such violations were created by an occupant, user, contractor, or other third party. Failure to correct
17 such violations may result in the penalties set forth in Section XX.11.

18
19 **Sec. XX.3. - Responsibilities of owners, occupants and users of construction sites for security**
20 **and maintenance.**

21
22 XX.3.1 The owner, occupant or user of a construction site shall not engage in any activity which
23 poses a danger to persons located on or off the construction site, from debris, materials or activities
24 carried on at the construction site, and shall take necessary precautions to secure the same. A
25 contractor engaging in work at a site or obtaining a building permit for a construction site constitutes
26 a "user" of a site.

27
28 XX.3.2. The owner, occupant or user of a construction site shall secure the site from unauthorized
29 access ~~between the hours of 6:00 p.m. of each day to 7:00 a.m. of the next day~~ during the hours in
30 which construction activity is prohibited by the use of a locked fence and/or security guard, unless an
31 extension of hours is obtained to perform construction activities during prohibited hours in
32 accordance with XX.4.

33 XX.x.x. The owner, occupant or user of a construction site shall provide access to Village
34 representatives for the purpose of performing inspections as necessary.

35
36 XX.3.3. The owner, occupant or user of a construction site shall complete job site maintenance, on
37 a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the
38 following:

39 XX.3.3.1 Sweeping of public roadways which are directly affected by construction site
40 dust, debris or activities.

41 XX.3.3.2 Pickup and disposal of litter at or generated by the construction site.

42
43 XX.3.3.3. Washing down of any street signs or public property which are impacted by
44 dust or debris from the construction site activity.

45
46 XX.3.3.4. Stacking of materials and equipment which are visible from a public right-of-
47 way in an orderly appearance.

1 XX.3.3.5. Stacking of construction materials in a manner which assures that the
2 materials and material packaging shall not fall or be transported into any canals, lakes,
3 drainage facilities or other water bodies in the vicinity of the site.

4 XX.3.3.6. Watering of exposed loose earth at the site so as to minimize off-site transport
5 of particulate matter. In so doing, any run-off that is generated from said watering must be
6 contained within the site.

7
8 XX.3.4. All construction sites shall have a protected entrance/exit from the site such that no mud,
9 debris, concrete waste, nor any other material is carried off of the site onto sidewalks or streets by
10 trucks, equipment, or any other method.

11 XX.3.5. All existing swimming pools located within a construction site shall be separately fenced
12 with a safety barrier of minimum 4 feet in height, secured by a lock or a latch.

13
14 XX.3.6. If the premises within the construction site is unoccupied, the swimming pool must be
15 drained and free of standing water until such time as the certificate of occupancy is issued.

16
17 XX.3.7. Before final approval of any building or structure constructed or any other work for which
18 a permit has been issued, the Building Official shall require that all solid waste be removed from the
19 construction site.

20 **Sec. XX.4. - Permitted days and hours for construction work.**

21
22 Sec. XX.4.1. - The erection (including excavation), demolition, alteration or repair of any building or
23 delivery of materials other than at the following times is prohibited:

24 XX.4.1.1. Monday through ~~Saturday~~ Friday, 7:00 a.m. to 6:00 p.m.

25 XX.x.x.x. Saturday, 8:00 a.m. to 4:00 p.m.

26
27 XX.4.1.2. No work may be conducted on Sundays or Federal holidays.

28
29 XX. 4.2.- Permit for work during prohibited hours. Any person may apply to the Building Official
30 for a permit to operate during the hours or days prohibited under this section. If the Building Official
31 or his designee shall determine that substantial loss or substantial inconvenience would result to any
32 party in interest, and that the public health and safety will not be impaired by such operation, a permit
33 may be issued which would allow work to occur during hours or days otherwise prohibited by this
34 subsection. Notice of permit approval shall be provided by the Village to adjacent property owners.
35 The permit shall not exceed (3) three days in duration, but may be renewed from time to time for a
36 like period so long as the circumstances described in this subsection exist.

37 XX.4.3. - Emergency and special types of construction. Where ordinary and necessary trade or
38 engineering practices or an emergency require the continuous operation of pumps, well points,
39 dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a
40 permit shall be required and such operation shall not constitute a violation of this subsection. It is not
41 the intent of this subsection to require poor or wasteful engineering or building practices in order to
42 comply herewith.

43 **Sec. XX.5. Construction Fence Requirements.**

44
45 XX.5.1. All construction sites shall be enclosed with a temporary construction fence, which shall be
46 installed prior to commencement of any construction activity or material deliveries. The temporary
47 construction fence shall be installed on the front, side, and rear property lines, but in no event shall
48 said fence encroach into the right of way. This section shall not be construed to require the erection
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1 of a temporary construction fence along the same property lines wherein an existing permanent fence
2 already exists.

3 XX.5.2. Permit required. No person or entity shall install or construct a temporary construction fence
4 in the Village without first obtaining a permit from the Village's Building Department following the
5 approval by the Planning Board. Each fence constructed or maintained shall be constructed and
6 anchored in accordance with the Florida Building Code. Under no circumstance can a temporary
7 construction fence permit be issued until a demolition permit ~~or~~ and building permit¹ is approved for
8 the site by the Village's Building Department, following the approval by the Planning Board.
9

10 XX.5.3. Minimum and maximum height. The temporary construction fence shall have a ~~minimum~~
11 ~~height of six feet, and permitted maximum height of 12 feet.~~

12 XX.5.4. Fencing material and maintenance. The fence shall be chain-link, covered with green or black
13 nylon material, screening the construction from view. Screening material must be maintained in good
14 repair, free of tears, sagging, or weathering.

15 XX.5.5. Expiration of permit. A temporary construction fence permit issued under this chapter shall
16 expire after six (6) months, which will be subject to renewal at the discretion of the Village Building
17 Official, following a recommendation from the Planning Board. If the temporary construction fence
18 permit expires, said fence shall be removed within fifteen (15) days of expiration. In no event shall
19 the temporary construction fence permit remain open past the issuance of a certificate of occupancy.
20 The temporary fence shall remain on the property until the completion of construction, provided that
21 it shall be removed in accordance with the Florida Building Code.
22

23 XX.5.6. Access gates. All temporary construction fences shall contain access gates ~~with a minimum~~
24 ~~clear opening width of 12 feet.~~ Access gates must be provided at the front of the property. Gates must
25 be kept unlocked during inspection hours, as may be established by the Building Department, and
26 secured in conformance with Section XX.2.2.
27

28 **Sec. XX.6. – Construction Dumpsters.**

29 XX.6.1. All construction dumpsters shall meet the following requirements and be maintained in the
30 following manner:

31 ~~XX.6.1.1. Dumpsters must be equipped with covers so that the contents therein are not~~
32 ~~exposed to weather, animals and vermin.~~

33 ~~XX.6.1.2. Dumpster covers/lids shall be kept closed at all times when the dumpster is not~~
34 ~~being used or serviced.~~

35 XX.6.1.1. Containment of garbage. Garbage and trash shall be placed inside the
36 construction dumpster and not on or around the construction dumpster or the enclosure.
37 Loose garbage and trash in plain view is a violation of this Code, a health hazard, and
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42 ¹ Additional consideration needs to be given to this provision, because it is the recommendation of the Chairperson of the
43 Planning Board that the Code be amended to provide that in all instances, a demolition permit cannot be approved by the
44 Village, unless and until, a building permit is contemporaneously also approved by the Village. The intent is to avoid
45 situations wherein a premises is demolished, and the land remains vacant indefinitely. There was not a clear consensus on
46 this issue from the Board.

47 An alternative was discussed, wherein the Code could be amended to provide that in all instances wherein a demolition
48 permit is issued with the intent to have a vacant lot, the owner will be required to maintain the lot in a park-like setting,
49 provided that a landscape plan is approved by the Village Manager. At a minimum, the park-like setting must be grass
covering the entire lot, and other maintenance standards can be provided.

1 aesthetically undesirable. The property owner shall be responsible for keeping the
2 enclosure and surrounding area litter, garbage, and/or trash-free at all times.

3 XX.6.1.2. It shall be a violation of the Village's Code of Ordinances to allow the
4 construction dumpster to be filled to over-capacity ~~so that the dumpster lid is prevented~~
5 ~~from fully closing.~~

6 XX.6.1.3. All construction dumpsters must be screened from public rights-of-way with a
7 six-foot-high fence as approved by the Building Official. The construction dumpster shall
8 not be visible from the public's view or from adjoining rights-of-way or properties.
9

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11 XX.6.1.4. Prior to a certificate of occupancy or closure of any building permit being issued,
12 the construction dumpster shall be removed from the construction site.

13
14 **Sec. XX.7. – Requirements during weather emergency.**

15 XX.7.1. It is the responsibility of the owner and contractor to have removed or secured construction
16 materials from the construction site at least 48 hours prior to the predicted landfall of a tropical storm
17 or hurricane.
18

19 XX.7.1.1. Applicability. At least 48 hours prior to the predicted landfall of a tropical storm
20 or hurricane for any portion of Miami Dade County Florida, as determined by the National
21 Weather Service, National Hurricane Center or appropriate weather agency or as provided
22 in the Village's emergency plan; or upon order of the Building Official in anticipation of a
23 storm emergency; all construction materials, including roof tiles, on all project sites within
24 the Village shall be secured and stored onsite in a safe manner or removed so that no
25 material can become a safety hazard with hurricane or tropical storm force winds.

26 XX.7.1.2. Notice. Media broadcasts or notices issued by the National Weather Service or
27 National Hurricane Center of an approaching tropical storm or a hurricane is hereby
28 deemed notice to the owner or contractor. The owner and contractor are responsible for the
29 project site by securing on-site or removing from the site any construction materials or
30 debris to protect against the effect of hurricane or tropical storm force winds. By holding a
31 building permit during hurricane season, the contractor shall monitor the National Weather
32 Service and the National Hurricane Center for weather emergencies.
33

34 XX.7.1.3. Inspection. A pre-storm inspection shall be required for all active construction
35 sites involving exterior work and/or exterior storage of materials. The owner and contractor
36 shall be responsible for insuring that the construction site has passed inspection prior to the
37 issuance of a tropical storm warning or hurricane warning. The owner or contractor shall
38 be available by phone until the site has passed the pre-storm inspection. Failure to properly
39 secure a job site and pass inspection will be considered a violation of this ordinance. The
40 Village may recover as costs of repairs or compliance, the costs associated with securing
41 job sites that have not complied with this section in addition to any fines imposed by the
42 Code Compliance Board. And such costs shall constitute a lien on the property.

43 XX.7.1.4. Materials stockpiled on site. Materials stockpiled on any construction site shall
44 be handled as follows:

45 XX.7.1.4.1. Band construction materials together and fasten them to the structure in
46 such a manner to prevent the material from becoming airborne during a tropical storm
47 or hurricane; or
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1 XX.7.1.4.2. Remove construction materials from the top of the structure and secure
2 them to the ground; or

3 XX.7.1.4.3. Remove construction materials from the project site; or

4 XX.7.1.4.4. Store construction materials inside a structure if said structure is secure
5 from tropical or hurricane force wind loads.
6

7 XX.7.1.5. The contents of construction site dumpsters must be removed or weighted and
8 secured with rope, mesh or other durable, wind resistant material.

9 XX.7.1.6. Temporary toilets shall be secured to the structure, dumpster or emptied and laid
10 horizontal and secured to the ground.

11 XX.7.1.7. During the National Weather Service designated hurricane season, building or
12 roofing materials shall not be loaded on a roof earlier than ten working days prior to the
13 permanent installation of the materials.
14

15 XX.7.1.8. Material capable of becoming airborne. Construction materials, debris or any
16 material capable of becoming airborne shall remain secured and stored on the project site
17 or shall be removed from the project site until the National Weather Service, National
18 Hurricane Center, or the Village through local action has removed all persons of the Village
19 from those areas included in a tropical storm warning or hurricane warning. Construction
20 shall not resume on any construction site until the site is brought into compliance with the
21 construction site management plan.
22

23 **Sec. XX.8. – Temporary Toilets; Location; required setback.**

24 XX.8.1. All temporary toilets shall be kept in a place easily accessible to authorized collection
25 vehicles at all times, and follow the required setback as outlined below.

26 XX.8.1.1. All temporary toilets shall be located a minimum of 10 feet from adjoining
27 residential or multiple-family uses, unless not physically possible;

28 XX.8.1.2. All temporary toilets must be screened from public rights-of-way with a
29 minimum six-foot-high fence and plywood structure as approved by the Building Official.
30 The temporary toilets shall not be visible from the public's view or from adjoining rights-
31 of-way or properties.
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34 **Sec. XX.9. – Limitations on parking of construction vehicles or construction employee vehicles.**

35 XX.9.1. Parking of any construction vehicles or construction employee vehicles shall either be on
36 the construction site as defined herein, or at a public parking lot or along a public street where parking
37 is permitted. Parking at any other site, including adjacent right of ways, is strictly prohibited unless
38 permitted by the Village or abutting property owner in writing.

39 XX.9.2. Parking of any construction employee vehicle shall not be permitted on the construction
40 site during the hours in which construction activity is prohibited.
41

42 XX.x9.3. All construction vehicles, trucks, and heavy equipment shall be removed from the
43 construction site at the end of each work day; provided, heavy construction equipment may remain
44 on the job site overnight if the Building Official determines that the public health and safety will
45 not be impaired and that substantial loss or hardship will result to the owner or contractor if such
46 heavy construction equipment is required to be removed from the job site on a daily basis. Prior to
47 storing any heavy construction equipment on a construction site at the end of a work day, an owner
48 or contractor must file an application for and obtain a permit from the Village permitting such
49 storage. The application shall set forth the reason(s) for the request to allow the heavy construction

1 equipment to remain on the job site, the estimated period of time that such storage will be necessary,
2 and a statement executed by the owner or contractor agreeing to remove the heavy construction
3 equipment from the job site prior to the expiration of the permit. Any fine levied by a citation issued
4 for a violation of this section shall be paid prior to final inspections or issuance of a certificate of
5 occupancy. For purposes of this section, heavy construction equipment means cranes, bulldozers,
6 track vehicles, or other similar heavy equipment or vehicles used in the construction or demolition
7 process.

8
9 XX.9.4. The parking of any construction vehicles or construction employee vehicles shall be strictly
10 prohibited in medians.

11 **Sec. XX.10. – Bond requirements.**

12
13 XX.10.1. Prior to the issuance of a building permit, it shall be the duty of the Building Official to
14 determine whether the improvement being permitted or constructed pursuant to the permit is in such
15 close proximity to a median, that the work associated with the permit would likely result in
16 construction debris being left abandoned on the median, or could result in damage to the median. If,
17 in the opinion of the Building Official, it appears probable that, in the course of construction, that the
18 work involved will leave debris or damage to the Village median, the Building Official shall require
19 a cash bond of \$5,000.00 to be posted by the applicant.

20
21 XX.10.2. The bond required under this section shall be posted in addition to any amounts otherwise
22 required to be paid to the Village by the applicant including, but not limited to, any fees required
23 pursuant to other resolutions or ordinances of the Village relating to the improvement of the property.

24
25 XX.10.3. The Building Official shall give a receipt for the sum of money on a form prepared by the
26 Village. The receipt form shall contain a provision that all or part of the cash bond shall be forfeited
27 upon documentation of damage to the median or debris abandoned on the median. The Village has
28 the right to restore the median or clean the debris abandoned on the median. Any amount of forfeiture
29 will trigger a stop work order while the \$5,000.00 bond is replenished and the median cleaned of
30 debris.

31 **Sec. XX.11. – Enforcement and Penalties**

32
33 XX.11.1. Failure to strictly comply with any provision of this article shall result in a fine of \$250 per
34 day.

35
36 XX.11.2. Violations of this Chapter shall be enforced in accordance with
37 Chapter 14 of the Biscayne Park Land Development Code.

38 **Section 3.** The following subsections of Section 10.4 of the Biscayne Park Land Development
39 Code are hereby deleted:

40 10.4. - Building construction.

41 ***

42 ~~10.4.8 Removal of construction materials.~~

43 ~~(a) Any accumulated debris shall be deposited in an dumpster and surplus materials and~~
44 ~~construction equipment shall be removed from the premises if the job is abandoned. Any person causing~~
45 ~~the accumulation of building material waste is required to collect, convey and dispose of such material~~
46 ~~waste within ten (10) days of completion of the project or on notification from the building official. Failure~~
47 ~~to do so will be considered a violation of this code and all other related ordinances and governing laws~~
48 ~~and be subject to the penalties thereof.~~

1 (b) ~~The village will not collect, convey or dispose of building material waste.~~

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3 ***

4 ~~10.4.10. Construction work prohibited on Sunday. No work on any construction job shall be~~
5 ~~performed on Sunday.~~

6
7 **Section 4. Inclusion in the Code & Scrivener’s Errors.** The Village Commission intends
8 that the provisions of this Ordinance be made a part of the Biscayne Park Code, and that sections herein
9 may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish
10 codification; regardless, typographical errors that do not affect intent may be corrected with notice to and
11 authorization of the Village Manager without further process.

12
13 **Section 5. Conflicts.** Whenever the requirements or provisions of this Ordinance are in
14 conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most
15 restrictive shall apply.

16
17 **Section 6. Severability.** If any section, subsection, sentence, clause or phrase of this
18 Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,
19 such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the
20 part so declared.

21
22 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption by the
23 Village Commission.

24
25 PASSED AND ADOPTED upon first reading this ____ day of _____, 202_.

26
27 PASSED AND ADOPTED upon second reading this ____ day of _____, 202_.

28
29
30
31 The foregoing Ordinance was offered by _____, who moved its
32 adoption. The motion was seconded by _____, and upon being put to a vote
33 the vote was as follows:

34
35 Virginia O’Halpin, Mayor _____
36 Art Gonzalez, Vice-Mayor _____
37 Judi Hamelburg, Commissioner _____
38 MacDonald Kennedy, Commissioner _____
39 Dan Samaria, Commissioner _____
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1
2 VILLAGE OF BISCAYNE PARK
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5 _____
6 Virginia O’Halpin, Mayor
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8
9 ATTEST:
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11 _____
12 Roseann Prado, Village Clerk
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15
16 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
17 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:
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19 _____
20 Edward A. Dion, Village Attorney
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VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 11.a

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

FROM: Roseann Prado, Village Clerk

DATE: December 1, 2020

TITLE: **Resolution 2020-64** - FDOT NE 6th Avenue landscape agreement
RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE
OF BISCAYNE PARK AUTHORIZING THE VILLAGE MANAGER TO
EXECUTE THE RENEWAL FOR THE TURF AND LANDSCAPE
MAINTENANCE JOINT PARTICIPATION AGREEMENT BETWEEN
THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE
VILLAGE OF BISCAYNE PARK; AND PROVIDING FOR AN
EFFECTIVE DATE..

BACKGROUND

The Florida Department of Transportation (FDOT) has jurisdiction over and maintains State Road (S.R.) 915/NE 6 Avenue/Biscayne Park Way. The Village and FDOT have previously entered into a Turf and Landscape Maintenance Joint Participation Agreement (JPA) in which FDOT reimburses the Village for the mowing of medians along NE 6 Avenue. Pursuant to the JPA, the Village is responsible for the cost of maintenance for the landscaping and trees within the right of way in the budgeted amount of \$ 2,856.00. This agreement is subject to renewal annually.

STAFF RECOMMENDATION

Staff recommends approval of Resolution 2020-64

ATTACHMENTS

- Resolution No. 2020-64

Turf and Landscape Maintenance Joint Participation Agreement between the Florida Department of Transportation and the Village of Biscayne Park

Prepared by: Roseann Prado, Village Clerk