



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 10.b**

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

**FROM:** Edward Dion, Village Attorney

**DATE:** January 05, 2021

**TITLE:** **Ordinance 2020-07** – Construction Sites – Second Reading  
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.

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**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 16<sup>th</sup>, 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

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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 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 16<sup>th</sup>, 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 \_\_, 2020 the Village Commission held a first reading and public hearing of this proposed Ordinance; and

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

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

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

4  
5 **Section 2. Amendments to the Land Development Code.** Chapter XX of the Land  
6 Development Code of Ordinances, Village of Biscayne Park, Florida is hereby adopted by adding sections  
7 to be numbered \_\_\_\_\_, which sections read as follows:

8  
9 **CHAPTER XX – CONSTRUCTION**

10  
11 **Sec. XX.1 - Definitions.**

12  
13 The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
14 to them in this section, except where the context clearly indicates a different meaning:

15  
16 Construction dumpster mean any container, receptacle, compactor unit, trailer, roll-off, or similar unit  
17 with or without wheels that is used for temporary storage, containment, or transport of construction and  
18 demolition debris, which includes rock, metal and other materials which are heavy in weight or substantial  
19 in size, used in connection with a construction and/or demolition project.

20  
21 Construction fence means a temporary chain-link fence erected along the perimeter of a construction  
22 site as more specifically provided under this Chapter.

23  
24 Construction site includes all sites where new construction, remodeling, or additions take place, and  
25 are visible from the right of way other than exclusively interior work, which is not visible from the exterior  
26 of the premises. Work performed on any of the following shall not be considered a construction site for  
27 purposes of this Chapter: driveways, windows, roofs, doors, paint, or any such work deemed by the Village  
28 Building Official to be of such minor nature as to not fall within the purview of this Chapter.

29  
30 Construction vehicle(s) shall include, but not be limited to, the following: Semi-trucks, semi-trailers,  
31 truck cabs, excavators, backhoes, bulldozers, dump trucks, cement mixers, cranes, power shovels, well  
32 drillers, buses, wreckers, tow trucks, tractor crane, and any similar vehicle.

33  
34 ~~Dumpster means a container constructed of such material and in such manner as to hold solid waste~~  
35 ~~and trash and other such items without breaking or collapsing.~~

36  
37 Litter shall include, without limitation, all rubbish, refuse, waste material, garbage, including but not  
38 limited to the following; waste composed or animal, fish, fowl fruit or vegetable matter, dead animals,  
39 putrescible and non-putrescible solid waste (except body wastes), glass, cans bottles, discarded or  
40 abandoned machinery, equipment or parts thereof, discarded or abandoned motor vehicles or parts thereof,  
41 parts of broken furniture, furniture not designed for outdoor use, stoves or other appliances and industrial  
42 wastes.

43  
44 Secure, in reference to items, includes fastening down or removing all hazardous objects such as  
45 construction shacks, temporary toilets, roofing tile, building materials, trash, forms, insecure structures,  
46 temporary electric service poles, and protection of exposed glass areas with storm shutters. The term  
47 "secure," as applied to site access, includes protecting the construction site, during the hours as prescribed  
48 herein, by way of a locked fence surrounding the perimeter of the site and/or the provision of a security  
49 guard.

1  
2 *Solid waste* means garbage, trash, yard trash (except for compost piles), litter, cuttings from  
3 vegetation, refuse, paper, bottles, rags, hazardous waste, construction and demolition debris, industrial  
4 waste, or other discarded materials, including domestic and commercial building material waste, as further  
5 defined in Section 2.2.22 of the Biscayne Park Land Development Code.

6  
7 **Sec. XX.2. – Applicability and Property Owner Responsibility.**

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

16  
17 **Sec. XX.3. - Responsibilities of owners, occupants and users of construction sites for security**  
18 **and maintenance.**

19  
20 XX.3.1 The owner, occupant or user of a construction site shall not engage in any activity which  
21 poses a danger to persons located on or off the construction site, from debris, materials or activities  
22 carried on at the construction site, and shall take necessary precautions to secure the same. A  
23 contractor engaging in work at a site or obtaining a building permit for a construction site constitutes  
24 a "user" of a site.

25 XX.3.2. The owner, occupant or user of a construction site shall secure the site from unauthorized  
26 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  
27 which construction activity is prohibited by the use of a locked fence and/or security guard, unless an  
28 extension of hours is obtained to perform construction activities during prohibited hours in  
29 accordance with XX.4.

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

32  
33  
34 XX.3.3. The owner, occupant or user of a construction site shall complete job site maintenance, on  
35 a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the  
36 following:

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

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

40  
41 XX.3.3.3. Washing down of any street signs or public property which are impacted by  
42 dust or debris from the construction site activity.

43  
44 XX.3.3.4. Stacking of materials and equipment which are visible from a public right-of-  
45 way in an orderly appearance.

46  
47 XX.3.3.5. Stacking of construction materials in a manner which assures that the  
48 materials and material packaging shall not fall or be transported into any canals, lakes,  
49 drainage facilities or other water bodies in the vicinity of the site.

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

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

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

9 XX.xx. If the premises or property within the construction site is unoccupied, the swimming pool  
10 must be drained and free of standing water until such time as the certificate of occupancy is issued.

11 XX.3.5. Before final approval of any building or structure constructed or any other work for which  
12 a permit has been issued, the Building Official shall require that all solid waste be removed from the  
13 construction site.

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

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

17 XX.4.1.1. Monday through Saturday Friday, 78:00 a.m. to 6:00 p.m.

18 XX.x.x.x. Saturday, 811:00 a.m. to 46:00 p.m.

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

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

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

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

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

41 XX.5.2. Permit required. No person or entity shall install or construct a temporary construction fence  
42 in the Village without first obtaining a permit from the Village's Building Department following the  
43

1 approval by the Planning Board. Each fence constructed or maintained shall be constructed and  
2 anchored in accordance with the Florida Building Code. Under no circumstance can a temporary  
3 construction fence permit be issued until a demolition permit ~~or~~ and building permit <sup>1</sup> is approved for  
4 the site by the Village's Building Department, following the approval by the Planning Board.

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

7  
8 XX.5.4. Fencing material and maintenance. The fence shall be chain-link, covered with green or black  
9 nylon material, screening the construction from view. Screening material must be maintained in good  
10 repair, free of tears, sagging, or weathering.

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

18  
19 XX.5.6. Access gates. All temporary construction fences shall contain access gates ~~with a minimum~~  
20 ~~clear opening width of 12 feet.~~ Access gates must be provided at the front of the property. Gates must  
21 be kept unlocked during inspection hours, as may be established by the Building Department, and  
22 secured in conformance with Section XX.2.2.

### 23 **Sec. XX.6. – Construction Dumpsters.**

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

26  
27 ~~XX.6.1.1. Dumpsters must be equipped with covers so that the contents therein are not~~  
28 ~~exposed to weather, animals and vermin.~~

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

31  
32 XX.6.1.1. Containment of garbage. Garbage and trash shall be placed inside the  
33 construction dumpster and not on or around the construction dumpster or the enclosure.  
34 Loose garbage and trash in plain view is a violation of this Code, a health hazard, and  
35 aesthetically undesirable. The property owner shall be responsible for keeping the  
36 enclosure and surrounding area litter, garbage, and/or trash-free at all times.

37  
38 XX.6.1.2. It shall be a violation of the Village's Code of Ordinances to allow the  
39 construction dumpster to be filled to over-capacity ~~so that the dumpster lid is prevented~~  
40 ~~from fully closing.~~

41 ~~XX.6.1.3. All construction dumpsters must be screened from public rights-of-way with a~~  
42 ~~six-foot-high fence as approved by the Building Official. A construction fence that~~  
43 ~~screens the construction dumpster as set forth in this section shall be deemed to meet~~  
44 ~~the requirements of this section.~~ The construction dumpster shall not be visible from the  
45 public's view or from adjoining rights-of-way or properties.

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48 <sup>1</sup> Time limits for construction to be discussed.

1  
2 XX.6.1.4. Prior to a certificate of occupancy or closure of any building permit being issued,  
3 the construction dumpster shall be removed from the construction site.  
4

5 **Sec. XX.7. – Requirements during weather emergency.**

6 XX.7.1. It is the responsibility of the owner and contractor to have removed or secured construction  
7 materials from the construction site at least 48 hours prior to the predicted landfall of a tropical storm  
8 or hurricane.  
9

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

17 XX.7.1.2. Notice. Media broadcasts or notices issued by the National Weather Service or  
18 National Hurricane Center of an approaching tropical storm or a hurricane is hereby  
19 deemed notice to the owner or contractor. The owner and contractor are responsible for the  
20 project site by securing on-site or removing from the site any construction materials or  
21 debris to protect against the effect of hurricane or tropical storm force winds. By holding a  
22 building permit during hurricane season, the contractor shall monitor the National Weather  
23 Service and the National Hurricane Center for weather emergencies.  
24

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

35 XX.7.1.4. Materials stockpiled on site. Materials stockpiled on any construction site shall  
36 be handled as follows:

37 XX.7.1.4.1. Band construction materials together and fasten them to the structure in  
38 such a manner to prevent the material from becoming airborne during a tropical storm  
39 or hurricane; or

40 XX.7.1.4.2. Remove construction materials from the top of the structure and secure  
41 them to the ground; or

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

43 XX.7.1.4.4. Store construction materials inside a structure if said structure is secure  
44 from tropical or hurricane force wind loads.  
45

46 XX.7.1.5. The contents of construction site dumpsters must be removed or weighted and  
47 secured with rope, mesh or other durable, wind resistant material.  
48  
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1 XX.7.1.6. Temporary toilets shall be secured to the structure, dumpster or emptied and laid  
2 horizontal and secured to the ground.

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

6 XX.7.1.8. Material capable of becoming airborne. Construction materials, debris or any  
7 material capable of becoming airborne shall remain secured and stored on the project site  
8 or shall be removed from the project site until the National Weather Service, National  
9 Hurricane Center, or the Village through local action has removed all persons of the Village  
10 from those areas included in a tropical storm warning or hurricane warning. Construction  
11 shall not resume on any construction site until the site is brought into compliance with the  
12 construction site management plan.  
13

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

15 XX.8.1. All temporary toilets shall be kept in a place easily accessible to authorized collection  
16 vehicles at all times, and follow the required setback as outlined below.  
17

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

20 XX.8.1.2. All temporary toilets must be screened from public rights-of-way with a  
21 minimum six-foot-high fence and plywood structure as approved by the Building Official.  
22 The temporary toilets shall not be visible from the public's view or from adjoining rights-  
23 of-way or properties.  
24

25 **Sec. XX.9. – Limitations on parking of construction vehicles or construction employee vehicles.**

26 XX.9.1. Parking of any construction vehicles or construction employee vehicles shall either be on  
27 the construction site as defined herein, or at a public parking lot or along a public street where parking  
28 is permitted. Parking at any other site, including adjacent right of ways, is strictly prohibited unless  
29 permitted by the Village or abutting property owner in writing.  
30

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

33 XX.x.x. All construction vehicles, trucks, and heavy equipment shall be removed from the  
34 construction site at the end of each work day; provided, heavy construction equipment may remain  
35 on the job site overnight if the Building Official determines that the public health and safety will  
36 not be impaired and that substantial loss or hardship will result to the owner or contractor if such  
37 heavy construction equipment is required to be removed from the job site on a daily basis. Prior to  
38 storing any heavy construction equipment on a construction site at the end of a work day, an owner  
39 or contractor must file an application for and obtain a permit from the Village permitting such  
40 storage. The application shall set forth the reason(s) for the request to allow the heavy construction  
41 equipment to remain on the job site, the estimated period of time that such storage will be necessary,  
42 and a statement executed by the owner or contractor agreeing to remove the heavy construction  
43 equipment from the job site prior to the expiration of the permit. Any fine levied by a citation issued  
44 for a violation of this section shall be paid prior to final inspections or issuance of a certificate of  
45 occupancy. For purposes of this section, heavy construction equipment means cranes, bulldozers,  
46 track vehicles, or other similar heavy equipment or vehicles used in the construction or demolition  
47 process.  
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1 XX.9.3. The parking of any construction vehicles or construction employee vehicles shall be strictly  
2 prohibited in medians.

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

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

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

14 XX.10.3. The Building Official shall give a receipt for the sum of money on a form prepared by the  
15 Village. The receipt form shall contain a provision that all or part of the cash bond shall be forfeited  
16 upon documentation of damage to the median or debris abandoned on the median. The Village has  
17 the right to restore the median or clean the debris abandoned on the median. Any amount of forfeiture  
18 will trigger a stop work order while the \$5,000.00 bond is replenished and the median cleaned of  
19 debris.  
20

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

22 XX.11.1. Failure to strictly comply with any provision of this article shall result in a fine of \$250 per  
23 day.  
24

25 XX.11.2. Violations of this Chapter shall be enforced in accordance with  
26 Chapter 14 of the Biscayne Park Land Development Code. **If during the course of a construction**  
27 **project, a property has acquired three (3) or more violations for conditions or actions deemed**  
28 **to be in contravention of the provisions of this chapter, the building official may issue a stop**  
29 **work order. The stop work order shall be in writing and shall be delivered to the owner of the**  
30 **property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a**  
31 **stop work order, the cited work shall immediately cease. The stop work order shall state the**  
32 **reason for the order, cite the work to be ceased and the conditions under which the cited work**  
33 **will be permitted to resume. Where an emergency exists, the building official shall not be**  
34 **required to give a written notice prior to stopping the work.**  
35

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

38 10.4. - Building construction.

39 \*\*\*

40 ~~10.4.8 Removal of construction materials.~~

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

47 ~~(b) The village will not collect, convey or dispose of building material waste.~~  
48  
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~~10.4.10. Construction work prohibited on Sunday. No work on any construction job shall be performed on Sunday.~~

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

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

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

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

PASSED AND ADOPTED upon first reading this 1<sup>st</sup> day of December 2020.

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

Arturo Gonzalez, Vice Mayor	Yes
Judi Hamelburg, Commissioner	Yes
MacDonald Kennedy, Commissioner	Yes
Dan Samaria, Commissioner	Yes

PASSED AND ADOPTED upon second reading this 5th day of January, 2021.

The foregoing Ordinance was offered by \_\_\_\_\_, who moved its adoption. The motion was seconded by \_\_\_\_\_, and upon being put to a vote the vote was as follows:

Virginia O’Halpin, Mayor	_____
Arturo Gonzalez, Vice Mayor	_____
Judi Hamelburg, Commissioner	_____
MacDonald Kennedy, Commissioner	_____
Dan Samaria, Commissioner	_____

1 VILLAGE OF BISCAYNE PARK

2  
3  
4 \_\_\_\_\_  
5 Virginia O’Halpin, Mayor

6  
7  
8 ATTEST:

9  
10  
11 \_\_\_\_\_  
12 Roseann Prado, Village Clerk

13  
14  
15 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
16 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:

17  
18  
19 \_\_\_\_\_  
20 Edward A. Dion, Village Attorney

**MIAMI DAILY BUSINESS REVIEW**

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE:

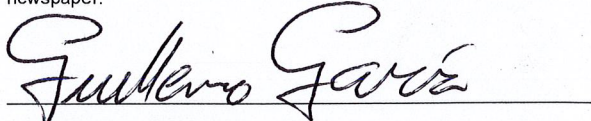
Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF BISCAYNE PARK - PUBLIC HEARING -  
ORDINANCE NO. 2020-07 - JAN. 05, 2021

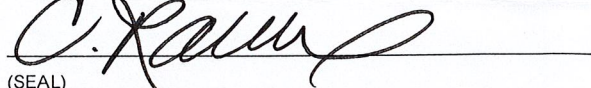
in the XXXX Court,  
was published in said newspaper in the issues of

12/21/2020

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Sworn to and subscribed before me this  
21 day of DECEMBER, A.D. 2020



(SEAL)  
GUILLERMO GARCIA personally known to me



**PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Village Commission of the Village of Biscayne Park, Florida will hear the following ordinance at a Public Hearing to be held beginning at 7:00 PM, Tuesday, January 05, 2021

**VIA VIRTUAL COMMUNICATIONS MEDIA TECHNOLOGY**

Because of COVID-19 and the need to ensure the public health, safety and welfare, this meeting will be conducted remotely. Members of the public may watch, listen and provide public comment during the public hearing on the below Ordinance during the Virtual Public Meeting via the Zoom platform. Instructions to login and Meeting ID will be available at agenda of the meeting.

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

# Village of Biscayne Park

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 600 NE 114th Street and at the Village's website [www.biscayneparkfl.com](http://www.biscayneparkfl.com). Interested parties may appear at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than (4) days prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request. Roseann Prado, Village Clerk  
12/21

20-102/0000504090M

s of the Decedent and having claims or demands dent's estate on whom is notice is required to st file their claims with IN OR BEFORE THE MONTHS AFTER THE FIRST PUBLICATION OF E OR 30 DAYS AFTER F SERVICE OF A COPY TICE ON THEM.

editors of the Decedent rsons having claims or ainst Decedent's estate r claims with this court MONTHS AFTER THE E FIRST PUBLICATION TICE.

AS NOT FILED WITHIN ERIODS SET FORTH IN TUTES SECTION 733.702 EWER BARRED.

STANDING THE TIME FORTH ABOVE, ANY D TWO (2) YEARS OR ER THE DECEDENT'S ATH IS BARRED.

f first publication of this umber 14, 2020  
Representative:  
GRANT HEADLEY  
W 5th Court  
L 33169

ersonal Representative:  
**A. RHODEN JR., ESQ.**  
o. 727571  
**A. RHODEN, P.L.**  
las Blvd. Ste. 1400  
le, FL 33301  
(354) 332-2342  
en@welthprotection.us  
20-09/0000502963M

**NOTICE TO CREDITORS  
PERSONS HAVING  
CLAIMS OR DEMANDS  
AGAINST THE ABOVE ESTATE**  
THE COURT OF THE 11TH  
CIRCUIT, IN AND FOR  
DADE COUNTY, FLORIDA  
DIVISION  
2019-2497 CP 02  
STATE OF  
SIERRA

Administration of the Estate  
of SIERRA, deceased,  
Case No. 2019-2497 CP 02, is  
pending in the Circuit Court of Miami-  
Dade County, Florida, Probate Divi-  
sion, the address of which is 73 W.  
t. Miami, FL 33130. The  
address of the Personal  
Representative and her attorney are  
as follows:

INTERESTED PERSONS ARE  
NOTIFIED THAT:  
The rights of the decedent and  
persons having claims or demands  
against the decedent's estate on whom  
s notice is served within  
months after the date of  
publication of this notice  
for claims with this Court  
NO LATER OF THREE (3)  
MONTHS AFTER THE DATE OF  
PUBLICATION OF THIS  
NOTICE.

editors of the decedent  
having claims or demands  
against the decedent's  
estate on whom s notice  
is served within months  
after the date of publi-  
cation of this notice for  
claims with this Court  
NO LATER OF THREE (3)  
MONTHS AFTER THE DATE  
OF PUBLICATION

The administration of the Estate  
of SCOTT M. STEPHENS, Deceased,  
Case No. 2020-4564-CP-02, is pend-  
ing in the Circuit Court in and for  
Miami-Dade County, Probate Division,  
the address of which is 73 West Flagler  
St., RM: 234, Miami, FL 33130.

The name and designated address  
of the Personal Representative as well  
as the Personal Representative's  
attorney is set forth below.

All creditors of the Decedent and  
other persons having claims or demands  
against Decedent's Estate, including  
un-matured, contingent, or unliquidated  
claims, on whom a copy of this notice  
is served must file their claims with  
this Court within the later of three (3)  
months after the date of first publi-  
cation of this notice or 30 days after  
the date of service of a copy of this  
notice on them.

All other creditors of the Decedent  
and persons having claims or demands  
against the Decedent's estate, including  
un-matured, contingent, or unliquidated  
claims, must file their claims with this  
Court within three (3) months after the  
date of first publication of this notice.

ALL CLAIMS, DEMANDS AND  
OBJECTIONS NOT SO FILED WILL  
BE FOREVER BARRED.

NOTWITHSTANDING THE TIME  
PERIODS SET FORTH ABOVE, ANY  
CLAIM FILED TWO YEARS OR MORE  
AFTER DECEDENT'S DEATH IS  
BARRED.

The date of first publication of this  
notice is December 14, 2020.

Personal Representative  
Alice "Diane" Stephens  
6480 SW 82nd Avenue  
Miami, FL 33143

Attorney for Personal Representative  
**JONATHAN S. TRABITZ, ESQ.**  
FBN#: 110644

**THOMAS G. SHERMAN, P.A.**  
90 Almeria Avenue  
Coral Gables, Florida 33134  
Phone: 305-448-5898  
Email: Jonathan@uniontitleservices.com  
12/14-21 20-11/0000502685M

**FICTITIOUS NAMES**

**NOTICE UNDER  
FICTITIOUS NAME LAW  
PURSUANT TO SECTION  
865.09, FLORIDA STATUTES**

NOTICE IS HEREBY GIVEN that  
the undersigned, desiring to engage in  
business under the Fictitious Name of  
**AerSale Component Solutions,**  
with a mailing address of  
**121 Alhambra Plaza, Ste. 1700,  
Coral Gables, FL 33134,**  
and a principal office located  
in Miami-Dade County, intends to  
register the said name with the  
FL Dept. of State, Div. of Corps.,  
Tallahassee, FL.  
**AVBORNE ACCESSORY  
GROUP, INC.**  
12/21 20-81/0000503766M

**ADMINISTRATIVE COMPLAINT**

**NOTICE OF ADMINISTRATIVE COMPLAINT**

To: Yureni Sanchez  
Case No.: CD201904205/D 1900262

An Administrative Complaint to revoke your license and eligibility for  
licensure has been filed against you. You have the right to request a  
hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, by  
mailing a request for same to the Florida Department of Agriculture and  
Consumer Services, Division of Licensing, Post Office Box 5708 Tallahassee,  
Florida 32314-5708. If a request for hearing is not received by 21 days  
from the date of the last publication, the right to hearing in this matter will  
be waived and the Department will dispose of this cause in accordance  
with law.  
12/21-28 1/4-11 20-73/0000503477M

**NOTICE OF ADMINISTRATIVE COMPLAINT**

To: Sabrina L. Amuis  
Case No.: CD202000194/D 1920152

An Administrative Complaint to revoke your license and eligibility for  
licensure has been filed against you. You have the right to request a hearing  
pursuant to Sections 120.569 and 120.57, Florida Statutes, by mailing a  
request for same to the Florida Department of Agriculture and Consumer  
Services, Division of Licensing, Post Office Box 5708 Tallahassee, Florida  
32314-5708. If a request for hearing is not received by 21 days from the  
date of the last publication, the right to hearing in this matter will be waived  
and the Department will dispose of this cause in accordance with law.  
12/21-28 1/4-11 20-71/0000503501M

**NOTICE OF ADMINISTRATIVE COMPLAINT**

To: Kenyata K. Butler  
Case No.: CD202002597/D 1934280/ 3000054

An Administrative Complaint to revoke your license and eligibility for  
licensure has been filed against you. You have the right to request a hearing  
pursuant to Sections 120.569 and 120.57, Florida Statutes, by mailing a  
request for same to the Florida Department of Agriculture and Consumer  
Services, Division of Licensing, Post Office Box 5708 Tallahassee, Florida  
32314-5708. If a request for hearing is not received by 21 days from the  
date of the last publication, the right to hearing in this matter will be waived  
and the Department will dispose of this cause in accordance with law.  
12/21-28 1/4-11 20-72/0000503493M

CONTACT THE OREGON STATE BAR'S  
LAWYER REFERRAL SERVICE ONLINE  
AT [WWW.OREGONSTATEBAR.ORG](http://WWW.OREGONSTATEBAR.ORG)  
OR BY CALLING (503) 684-3763 IN  
THE PORTLAND METROPOLITAN  
AREA OR TOLL-FREE ELSEWHERE  
AT (800) 452-7636.

This Summons is published by  
Order of the Honorable Thomas A.  
McHill, Judge of the above-entitled  
court, made and entered on the  
10th day of December, 2020, directing  
publication of this Summons once  
each week for four consecutive weeks

in the *Miami Daily Business Review*,  
a newspaper of general circulation  
in Miami, Dade County, Florida.

Date of first publication: Dec. 21,  
2020.

Date of last publication: Jan. 11,  
2021.

**RICHARD L. GRANT, OSB #832138**  
**Attorney for Plaintiff**  
806 SW Broadway, Suite 800  
Portland, OR 97205  
Telephone: (503) 222-7343  
12/21-28 1/4-11 20-77/0000503672M

**HEARINGS**



**PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Village Commission of the Village of Biscayne  
Park, Florida will hear the following ordinance at a Public Hearing to be  
held beginning at **7:00 PM, Tuesday, January 05, 2021**

**VIA VIRTUAL COMMUNICATIONS MEDIA TECHNOLOGY**  
Because of COVID-19 and the need to ensure the public health, safety  
and welfare, this meeting will be conducted remotely. Members of the  
public may watch, listen and provide public comment during the public  
hearing on the below Ordinance during the Virtual Public Meeting via  
the Zoom platform. Instructions to login and Meeting ID will be available  
at agenda of the meeting.

**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**

All documentation pertaining to this notice may be inspected by the public  
at the Office of the Village Clerk in Village Hall, 600 NE 114th Street and at  
the Village's website [www.biscayneparkfl.com](http://www.biscayneparkfl.com). Interested parties may appear  
at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person  
seek to appeal any decision made by the Commission with respect to any  
matter considered at this meeting, such person will need to ensure that a  
verbatim record of the proceedings is made; which record includes the  
testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990, persons  
who require special accommodation to participate in the proceedings  
should call the Village Clerk's office at (305) 899-8000 no later than (4)  
days prior to the proceeding for assistance. On day of meeting, if called in  
by 11:00am, we will do our best to accommodate your request. Roseann  
Prado, Village Clerk  
12/21 20-102/0000504090M



1  
2 **Comments by Gary Kuhl, Chairperson, Code Compliance Board**

3  
4 **General Comments**

- 5  
6 **1. Overreaching and burdensome conditions placed on construction serve to**  
7 **discourage improvements by increasing costs and the duration of construction.**  
8 **2. Codes should clearly define requirements. Leaving determinations to a building**  
9 **official or designee leaves room for arbitrary and abusive application, and the**  
10 **potential for corruption.**

11  
12  
13 **ORDINANCE NO. 2020-**

14  
15 **AN ORDINANCE OF THE VILLAGE COMMISSION OF THE**  
16 **VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A NEW**  
17 **CHAPTER XX OF THE BISCAYNE PARK LAND DEVELOPMENT**  
18 **CODE ENTITLED “CONSTRUCTION” RELATING TO**  
19 **LIMITATIONS ON CONSTRUCTION AND CONSTRUCTION**  
20 **RELATED ACTIVITIES; PROVIDING FOR DEFINITIONS;**  
21 **PROVIDING FOR RESPONSIBILITIES FOR SECURITY AND**  
22 **MAINTENANCE; PROVIDING FOR PERMITTED DAYS AND**  
23 **HOURS OF WORK; PROVIDING FOR FENCING**  
24 **REQUIREMENTS; PROVIDING FOR CONSTRUCTION**  
25 **DUMPSTER REQUIREMENTS; PROVIDING FOR**  
26 **REQUIREMENTS DURING WEATHER EMERGENCIES;**  
27 **PROVIDING FOR TEMPORARY TOILET REQUIREMENTS;**  
28 **PROVIDING FOR LIMITATIONS ON PARKING OF**  
29 **CONSTRUCTION VEHICLES; PROVIDING FOR BOND**  
30 **REQUIREMENTS; PROVIDING FOR ENFORCEMENT AND**  
31 **PENALTIES; DELETING SECTIONS 10.4.8. AND 10.4.10 OF THE**  
32 **BISCAYNE PARK LAND DEVELOPMENT CODE; PROVIDING**  
33 **FOR INCLUSION IN THE CODE AND SCRIVENER’S ERRORS;**  
34 **PROVIDING FOR CONFLICTS; PROVIDING FOR**  
35 **SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

36  
37 **WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate,  
38 and proprietary powers to enable them to conduct municipal government, perform municipal functions,  
39 and render municipal service, and exercise any power for municipal purposes, except when expressly  
40 prohibited by law; and

41  
42 **WHEREAS**, Section 4.03 of the Village Charter of the Village of Biscayne Park (“Village”)   
43 empowers the Village Commission to adopt, amend, or repeal such ordinances as may be required for the  
44 proper governing of the Village; and

45  
46 **WHEREAS**, the Village Commission recognizes the need to regulate construction activities and  
47 construction sites, as the secondary impacts of construction often adversely affect the residents’ quiet and  
48 peaceful enjoyment of their properties, present safety and security concerns, and can be unsightly if not  
49



1 maintained; therefore, the Village Commission finds that the adoption of this Ordinance is required to  
2 protect the health, safety and welfare of the residents of the Village; and

3  
4 **WHEREAS**, on November 16<sup>th</sup>, 2020, the Village Planning Board, as the local planning agency  
5 for the Village, held its hearing on this proposed Ordinance with due public notice and input; and

6  
7 **WHEREAS**, on December \_\_, 2020 the Village Commission held a first reading and public  
8 hearing of this proposed Ordinance; and

9  
10 **WHEREAS**, on January \_\_, 2021 the Village Commission held a second reading and public  
11 reading of this proposed Ordinance with due public notice and input.

12  
13 **NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAVNE PARK,**  
14 **FLORIDA AS FOLLOWS:**

15  
16 **Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this  
17 reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

18  
19 **Section 2. Amendments to the Land Development Code.** Chapter XX of the Land  
20 Development Code of Ordinances, Village of Biscayne Park, Florida is hereby adopted by adding sections  
21 to be numbered \_\_\_\_\_, which sections read as follows:

22  
23 **CHAPTER XX – CONSTRUCTION**

24  
25  
26 **Sec. XX.1 - Definitions.**

27  
28 **Definitions are currently scattered throughout the various Sections. The definitions**  
29 **should be consolidated in Section 2.2 to avoid conflicts and confusion that could arise**  
30 **when definitions appear in multiple locations. The body of the code can then refer to**  
31 **a definition by Section number when appropriate.**

32  
33 The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
34 to them in this section, except where the context clearly indicates a different meaning:

35  
36 Construction dumpster mean any container, receptacle, compactor unit, trailer, roll-off, or similar unit  
37 with or without wheels that is used for temporary storage, containment, or transport of construction and  
38 demolition debris, which includes rock, metal and other materials which are heavy in weight or substantial  
39 in size, used in connection with a construction and/or demolition project.

40  
41 Construction fence means a temporary chain-link fence erected along the perimeter of a construction  
42 site as more specifically provided under this Chapter.

43  
44 Construction site includes all sites where new construction, remodeling, or additions take place, and  
45 are visible from the right of way other than exclusively interior work, which is not visible from the exterior  
46 of the premises. Work performed on any of the following shall not be considered a construction site for  
47 purposes of this Chapter: driveways, windows, roofs, doors, paint, or any such work deemed by the Village  
48 Building Official to be of such minor nature as to not fall within the purview of this Chapter.  
49

1 The manner in which the first sentence is confusing and allows for the exclusion of an addition on  
2 the back of a house that may not be visible from the right of way but is nevertheless hazardous and  
3 involving exterior material storage. The definition should clearly define a “construction site” if it serves  
4 as the basis for requiring a construction fence.

5  
6 Include: The demolition and removal of any habitual building or garage.

7  
8 Include: Pools and excavations over four feet deep with a four foot high chain link fence.

9  
10 Excavations and pool shells can be as hazardous as a filled pool. The plastic fences that are typically  
11 employed are not sufficient barriers.

12  
13  
14 *Construction vehicle(s)* shall include, but not be limited to, the following: Semi-trucks, semi-trailers,  
15 truck cabs, excavators, backhoes, bulldozers, dump trucks, cement mixers, cranes, power shovels, well  
16 drillers, buses, wreckers, tow trucks, tractor crane, and any similar vehicle.

17  
18 ~~*Dumpster means a container constructed of such material and in such manner as to hold solid waste*~~  
19 ~~*and trash and other such items without breaking or collapsing.*~~

20  
21 *Litter* shall include, without limitation, all rubbish, refuse, waste material, garbage, including but not  
22 limited to the following; waste composed or animal, fish, fowl fruit or vegetable matter, dead animals,  
23 putrescible and non-putrescible solid waste (except body wastes), glass, cans bottles, discarded or  
24 abandoned machinery, equipment or parts thereof, discarded or abandoned motor vehicles or parts thereof,  
25 parts of broken furniture, furniture not designed for outdoor use, stoves or other appliances and industrial  
26 wastes.

27  
28 *Secure*, in reference to items, includes fastening down or removing all hazardous objects such as  
29 construction shacks, temporary toilets, roofing tile, building materials, trash, forms, insecure structures,  
30 temporary electric service poles, and protection of exposed glass areas with storm shutters. The term  
31 "secure," as applied to site access, includes protecting the construction site, during the hours as prescribed  
32 herein, by way of a locked fence surrounding the perimeter of the site and/or the provision of a security  
33 guard.

34  
35 *Solid waste* means garbage, trash, yard trash (except for compost piles), litter, cuttings from  
36 vegetation, refuse, paper, bottles, rags, hazardous waste, construction and demolition debris, industrial  
37 waste, or other discarded materials, including domestic and commercial building material waste, as further  
38 defined in Section 2.2.22 of the Biscayne Park Land Development Code.

39  
40 **Sec. XX.2. – Applicability and Property Owner Responsibility.**

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

1 **Sec. XX.3. - Responsibilities of owners, occupants and users of construction sites for security**  
2 **and maintenance.**

3  
4 ~~XX.3.1~~ XX.3.1 The owner, occupant or user of a construction site shall not engage in any  
5 activity which poses a danger to persons located on or off the construction site, from debris, materials  
6 or activities carried on at the construction site, and shall take necessary precautions to secure the  
7 same. A contractor engaging in work at a site or obtaining a building permit for a construction site  
8 constitutes a "user" of a site.

9  
10 XX.3.2. The owner, occupant or user of a construction site shall secure the site from unauthorized  
11 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  
12 which construction activity is prohibited by the use of a locked fence and/or security guard, unless an  
13 extension of hours is obtained to perform construction activities during prohibited hours in  
14 accordance with XX.4.

15 XX 3.2.1 The gate may be left unlocked after the hours of allowable construction activity is permitted if the  
16 owner or resident in on the construction site.

17 Homes may be occupied during construction and it would be extremely inconvenient to have to keep  
18 a gate locked outside of the allowable construction hours if the owner/occupant is home.

19  
20  
21 XX.x.x. The owner, occupant or user of a construction site shall provide access to Village  
22 representatives for the purpose of performing inspections as necessary.

23  
24 XX.3.3. The owner, occupant or user of a construction site shall complete job site maintenance, on  
25 a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the  
26 following:

27  
28 These requirements are excessive and burdensome. It is unrealistic to think a contractor will perform  
29 these tasks on a daily basis or that a code officer will enforce them on all construction sites at 6:00.

30  
31 Cleaning up from a concrete spill or an accumulation of debris should occur when it occurs not the  
32 end of the day. It is more to the point to simply say "Public property inclusive of roads, swales and  
33 sidewalks shall be kept clean and free of dirt, debris, litter or any other construction materials or waste  
34 at all times"

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

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

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

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

42 By definition a construction site requires a fence enclosure and vision screen. It is  
43 overreaching to require anything more.

44  
45  
46 XX.3.3.5. Stacking of construction materials in a manner which assures that the  
47 materials and material packaging shall not fall or be transported into any canals, lakes,  
48 drainage facilities or other water bodies in the vicinity of the site.  
49

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

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

8  
9 This is unrealistic.

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

12  
13 This is superfluous. State statues and Section 11.9 of BP code requires a 4 foot high fence.

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

17  
18 XX.3.5. Before final approval of any building or structure constructed or any other work for which  
19 a permit has been issued, the Building Official shall require that all solid waste be removed from the  
20 construction site.  
21

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

23 Sec. XX.4.1. - The erection (including excavation), demolition, alteration or repair of any building or  
24 delivery of materials other than at the following times is prohibited:  
25

26 XX.4.1.1. Monday through ~~Saturday Friday~~, 78:00 a.m. to 6:00 p.m.

27  
28  
29 ~~XX.x.x.x. Saturday, 8~~11:00 a.m. to ~~46~~46:00 p.m.

30 The allowable working hours restrict work to the hottest part of the day- The shortened  
31 hours reduces workers efficiency and increases costs. Leaf blowers, chain saws, etc. make  
32 more or as much noise as construction activities but those activities are not limited to an  
33 11:00 start.

34  
35 XX.4.1.2. No work may be conducted on Sundays or Federal holidays.

36 XX. 4.2.- Permit for work during prohibited hours. Any person may apply to the Building Official  
37 for a permit to operate during the hours or days prohibited under this section. If the Building Official  
38 or his designee shall determine that substantial loss or substantial inconvenience would result to any  
39 party in interest, and that the public health and safety will not be impaired by such operation, a permit  
40 may be issued which would allow work to occur during hours or days otherwise prohibited by this  
41 subsection. Notice of permit approval shall be provided by the Village to adjacent property owners.  
42 The permit shall not exceed (3) three days in duration, but may be renewed from time to time for a  
43 like period so long as the circumstances described in this subsection exist.  
44

45  
46 XX.4.3. - Emergency and special types of construction. Where ordinary and necessary trade or  
47 engineering practices or an emergency require the continuous operation of pumps, well points,  
48 dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a  
49 permit shall be required and such operation shall not constitute a violation of this subsection. It is not

1 the intent of this subsection to require poor or wasteful engineering or building practices in order to  
2 comply herewith.

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

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

10 The way this is written it would indicate that if there is an existing fence, no matter how small or  
11 inconsequential it may be, a construction fence is not required. If the intent is to indicate an existing  
12 fence does not need to be removed if it is on the property line to allow for a construction fence and  
13 the construction fence can be set back from the existing fence then that's how it should be written.

14 XX.5.2. Permit required. No person or entity shall install or construct a temporary construction fence  
15 in the Village without first obtaining a permit from the Village's Building Department following the  
16 approval by the Planning Board. Each fence constructed or maintained shall be constructed and  
17 anchored in accordance with the Florida Building Code. Under no circumstance can a temporary  
18 construction fence permit be issued until a demolition permit ~~or~~ and building permit <sup>1</sup> is approved for  
19 the site by the Village's Building Department, following the approval by the Planning Board.

20 Add: "A permit for demolition only may be obtained if no new construction is planned or permitted.

21 The lot shall be cleared, cleaned and graded and the fence removed if a permit for construction if a  
22 permit for new construction has not been obtained within 120 days."

23 The Florida Building Code does not address construction fences. It does address foundations for  
24 permanent chain link fences. 8 inch diameter by 2 feet deep footings are required for a 6 foot high  
25 chain link fence. Temporary construction fences typical have post supports that are driven into the  
26 ground or the fence is mounted on stanchions.

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

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

32 XX.5.5. Expiration of permit. A temporary construction fence permit issued under this chapter shall  
33 expire after six (6) months, which will be subject to renewal at the discretion of the Village Building  
34 Official, following a recommendation from the Planning Board. If the temporary construction fence  
35 permit expires, said fence shall be removed within fifteen (15) days of expiration. In no event shall  
36

37  
38  
39  
40  
41  
42  
43  
44  
45 <sup>1</sup> Additional consideration needs to be given to this provision, because it is the recommendation of the Chairperson of the  
46 Planning Board that the Code be amended to provide that in all instances, a demolition permit cannot be approved by the  
47 Village, unless and until, a building permit is contemporaneously also approved by the Village. The intent is to avoid  
48 situations wherein a premises is demolished, and the land remains vacant indefinitely. There was not a clear consensus on  
49 this issue from the Board. Time limits for construction- to discuss with building official

1 the temporary construction fence permit remain open past the issuance of a certificate of occupancy.  
2 The temporary fence shall remain on the property until the completion of construction, provided that  
3 it shall be removed in accordance with the Florida Building Code.

4 The Florida Building Code does not address the removal of fences or construction fences.

5  
6 XX.5.6. Access gates. All temporary construction fences shall contain access gates ~~with a minimum~~  
7 ~~clear opening width of 12 feet~~. Access gates must be provided at the front of the property. Gates must  
8 be kept unlocked during inspection hours, as may be established by the Building Department, and  
9 secured in conformance with Section XX.2.2.

10  
11 XX.xx An active permit is required from the inception of construction until the permit is closed and/or  
12 a certificate of occupancy is issued. When construction is suspended on a partially completed  
13 residence that is not occupied, the property if not fences shall be completely enclosed and gate locked.  
14 After 30 days of suspended construction portable toilets, chemicals, dumpsters and equipment shall  
15 be removed. The owner shall remain responsible for maintaining the swale contiguous to the  
16 property. Properties where the permit(s) have lapsed for more than 90 days shall be considered  
17 derelict. Derelict properties shall be subject to daily fines and/or demolition and removal by the  
18 Village.

19  
20  
21 **Sec. XX.6. – Construction Dumpsters.**

22  
23 XX.6.1. All construction dumpsters shall meet the following requirements and be maintained in the  
24 following manner:

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

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

29  
30 XX.6.1.1. Containment of garbage. Garbage and trash shall be placed inside the  
31 construction dumpster and not on or around the construction dumpster or the enclosure.  
32 Loose garbage and trash in plain view is a violation of this Code, a health hazard, and  
33 aesthetically undesirable. The property owner shall be responsible for keeping the  
34 enclosure and surrounding area litter, garbage, and/or trash-free at all times.

35  
36 XX.6.1.2. It shall be a violation of the Village's Code of Ordinances to allow the  
37 construction dumpster to be filled to over-capacity ~~so that the dumpster lid is prevented~~  
38 ~~from fully closing.~~

39 ~~XX.6.1.3. All construction dumpsters must be screened from public rights-of-way with a~~  
40 ~~six-foot-high fence as approved by the Building Official. A construction fence that~~  
41 ~~screens the construction dumpster as set forth in this section shall be deemed to meet~~  
42 ~~the requirements of this section.~~ The construction dumpster shall not be visible from the  
43 public's view or from adjoining rights-of-way or properties.

44 The last sentence may be interpreted to mean that even during working hours the dumpster  
45 cannot be visible. This would be unreasonable and unrealistic. Dumpster need to be located  
46 where they can be accessed by a truck consequently the dumpster or a portion of it may be  
47 visible during working hours when the gates are open.

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

3 **Sec. XX.7. – Requirements during weather emergency.**

4 XX.7.1. It is the responsibility of the owner and contractor to have removed or secured construction  
5 materials from the construction site at least 48 hours prior to the predicted landfall of a tropical storm  
6 or hurricane.  
7

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

15 XX.7.1.2. Notice. Media broadcasts or notices issued by the National Weather Service or  
16 National Hurricane Center of an approaching tropical storm or a hurricane is hereby  
17 deemed notice to the owner or contractor. The owner and contractor are responsible for the  
18 project site by securing on-site or removing from the site any construction materials or  
19 debris to protect against the effect of hurricane or tropical storm force winds. By holding a  
20 building permit during hurricane season, the contractor shall monitor the National Weather  
21 Service and the National Hurricane Center for weather emergencies.  
22

23 XX.7.1.3. Inspection. A pre-storm inspection shall be required for all active construction  
24 sites involving exterior work and/or exterior storage of materials. The owner and contractor  
25 shall be responsible for insuring that the construction site has passed inspection prior to the  
26 issuance of a tropical storm warning or hurricane warning. The owner or contractor shall  
27 be available by phone until the site has passed the pre-storm inspection. Failure to properly  
28 secure a job site and pass inspection will be considered a violation of this ordinance. The  
29 Village may recover as costs of repairs or compliance, the costs associated with securing  
30 job sites that have not complied with this section in addition to any fines imposed by the  
31 Code Compliance Board. And such costs shall constitute a lien on the property.  
32

33 XX.7.1.4. Materials stockpiled on site. Materials stockpiled on any construction site shall  
34 be handled as follows:

35 XX.7.1.4.1. Band construction materials together and fasten them to the structure in  
36 such a manner to prevent the material from becoming airborne during a tropical storm  
37 or hurricane; or

38 XX.7.1.4.2. Remove construction materials from the top of the structure and secure  
39 them to the ground; or

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

41 XX.7.1.4.4. Store construction materials inside a structure if said structure is secure  
42 from tropical or hurricane force wind loads.  
43

44 XX.7.1.5. The contents of construction site dumpsters must be removed or weighted and  
45 secured with rope, mesh or other durable, wind resistant material.  
46

47 XX.7.1.6. Temporary toilets shall be secured to the structure, dumpster or emptied and laid  
48 horizontal and secured to the ground.  
49

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

4 XX.7.1.8. Material capable of becoming airborne. Construction materials, debris or any  
5 material capable of becoming airborne shall remain secured and stored on the project site  
6 or shall be removed from the project site until the National Weather Service, National  
7 Hurricane Center, or the Village through local action has removed all persons of the Village  
8 from those areas included in a tropical storm warning or hurricane warning. Construction  
9 shall not resume on any construction site until the site is brought into compliance with the  
10 construction site management plan.

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

12  
13 XX.8.1. All temporary toilets shall be kept in a place easily accessible to authorized collection  
14 vehicles at all times, and follow the required setback as outlined below.

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

17  
18 XX.8.1.2. All temporary toilets must be screened from public rights-of-way with a  
19 minimum six-foot-high fence **and plywood structure** as approved by the Building Official.  
20 The temporary toilets shall not be visible from the public's view or from adjoining rights-  
21 of-way or properties.

22 **Screening temporary toilets with a plywood structure is uncommon and excessive.**

23  
24  
25 **Sec. XX.9. – Limitations on parking of construction vehicles or construction employee vehicles.**

26  
27 XX.9.1. Parking of any construction vehicles or construction employee vehicles shall either be on  
28 the construction site as defined herein, or at a public parking lot or along a public street where parking  
29 is permitted. Parking at any other site, **including adjacent right of ways**, is strictly prohibited unless  
30 permitted by the Village **or abutting property owner** in writing.

31  
32 XX.9.2. Parking of any construction employee vehicle shall not be permitted on the construction  
33 site during the hours in which construction activity is prohibited.

34 **XX.x.x. All construction vehicles, trucks, and heavy equipment shall be removed from the**  
35 **construction site at the end of each work day; provided, heavy construction equipment may remain**  
36 **on the job site overnight if the Building Official determines that the public health and safety will**  
37 **not be impaired and that substantial loss or hardship will result to the owner or contractor if such**  
38 **heavy construction equipment is required to be removed from the job site on a daily basis. Prior to**  
39 **storing any heavy construction equipment on a construction site at the end of a work day, an owner**  
40 **or contractor must file an application for and obtain a permit from the Village permitting such**  
41 **storage. The application shall set forth the reason(s) for the request to allow the heavy construction**  
42 **equipment to remain on the job site, the estimated period of time that such storage will be necessary,**  
43 **and a statement executed by the owner or contractor agreeing to remove the heavy construction**  
44 **equipment from the job site prior to the expiration of the permit. Any fine levied by a citation issued**  
45 **for a violation of this section shall be paid prior to final inspections or issuance of a certificate of**  
46 **occupancy. For purposes of this section, heavy construction equipment means cranes, bulldozers,**  
47 **track vehicles, or other similar heavy equipment or vehicles used in the construction or demolition**  
48 **process.**



1 Having to remove equipment on a daily basis is costly, disruptive to the adjacent residents and  
2 traffic, and it increases wear and tear on the roads. It is particularly superfluous to remove or permit  
3 any equipment if it is being stored behind a construction fence. Only in cases where the equipment  
4 is not actively being used should removal be required.

5  
6 XX.9.3. The parking of any construction vehicles or construction employee vehicles shall be strictly  
7 prohibited in medians.

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

9  
10 XX.10.1. Prior to the issuance of a building permit, it shall be the duty of the Building Official to  
11 determine whether the improvement being permitted or constructed pursuant to the permit is in such  
12 close proximity to a median, that the work associated with the permit would likely result in  
13 construction debris being left abandoned on the median, or could result in damage to the median. If,  
14 in the opinion of the Building Official, it appears probable that, in the course of construction, that the  
15 work involved will leave debris or damage to the Village median, the Building Official shall require  
16 a cash bond of \$5,000.00 to be posted by the applicant.

17  
18 XX.10.2. The bond required under this section shall be posted in addition to any amounts otherwise  
19 required to be paid to the Village by the applicant including, but not limited to, any fees required  
20 pursuant to other resolutions or ordinances of the Village relating to the improvement of the property.

21  
22 XX.10.3. The Building Official shall give a receipt for the sum of money on a form prepared by the  
23 Village. The receipt form shall contain a provision that all or part of the cash bond shall be forfeited  
24 upon documentation of damage to the median or debris abandoned on the median. The Village has  
25 the right to restore the median or clean the debris abandoned on the median. Any amount of forfeiture  
26 will trigger a stop work order while the \$5,000.00 bond is replenished and the median cleaned of  
27 debris.

28 Allowing the building official to make an arbitrary and independent decision to require a bond and  
29 be responsible for the transaction would promote the potential for corruption.

30  
31  
32 **Sec. XX.11. – Enforcement and Penalties**

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

36  
37 XX.11.2. Violations of this Chapter shall be enforced in accordance with  
38 Chapter 14 of the Biscayne Park Land Development Code. If during the course of a construction  
39 project, a property has acquired three (3) or more violations for conditions or actions deemed  
40 to be in contravention of the provisions of this chapter, the building official may issue a stop  
41 work order. The stop work order shall be in writing and shall be delivered to the owner of the  
42 property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a  
43 stop work order, the cited work shall immediately cease. The stop work order shall state the  
44 reason for the order, cite the work to be ceased and the conditions under which the cited work  
45 will be permitted to resume. Where an emergency exists, the building official shall not be  
46 required to give a written notice prior to stopping the work.

47 **Section 3.** The following subsections of Section 10.4 of the Biscayne Park Land Development  
48 Code are hereby deleted:  
49

1 10.4. - Building construction.

2 \*\*\*

3 ~~10.4.8 Removal of construction materials.~~

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

10  
11 (b) ~~The village will not collect, convey or dispose of building material waste.~~

12 \*\*\*

13  
14 ~~10.4.10. Construction work prohibited on Sunday. No work on any construction job shall be~~  
15 ~~performed on Sunday.~~

16  
17 **Section 4. Inclusion in the Code & Scrivener's Errors.** The Village Commission intends  
18 that the provisions of this Ordinance be made a part of the Biscayne Park Code, and that sections herein  
19 may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish  
20 codification; regardless, typographical errors that do not affect intent may be corrected with notice to and  
21 authorization of the Village Manager without further process.

22  
23 **Section 5. Conflicts.** Whenever the requirements or provisions of this Ordinance are in  
24 conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most  
25 restrictive shall apply.

26  
27 **Section 6. Severability.** If any section, subsection, sentence, clause or phrase of this  
28 Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,  
29 such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the  
30 part so declared.

31  
32 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption by the  
33 Village Commission.

34  
35 PASSED AND ADOPTED upon first reading this \_\_\_\_ day of \_\_\_\_\_, 202\_.

36  
37 PASSED AND ADOPTED upon second reading this \_\_\_\_ day of \_\_\_\_\_, 202\_.

38  
39 The foregoing Ordinance was offered by \_\_\_\_\_, who moved its  
40 adoption. The motion was seconded by \_\_\_\_\_, and upon being put to a vote  
41 the vote was as follows:

42  
43 Virginia O'Halpin, Mayor \_\_\_\_\_  
44 MacDonald Kennedy, Vice Mayor \_\_\_\_\_  
45 Arturo Jose Gonzalez, Commissioner \_\_\_\_\_  
46 Judi Hamelburg, Commissioner \_\_\_\_\_  
47 Dan Samaria, Commissioner \_\_\_\_\_  
48  
49

1 VILLAGE OF BISCAYNE PARK

2  
3  
4 \_\_\_\_\_  
5 Virginia O’Halpin, Mayor

6  
7  
8 ATTEST:

9  
10  
11 \_\_\_\_\_  
12 Roseann Prado, Village Clerk

13  
14  
15 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
16 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:

17  
18  
19 \_\_\_\_\_  
20 Edward A. Dion, Village Attorney

## Comments from JANEY ANDERSON Code Compliance Board member

### CONSTRUCTION FENCES:

Currently the requirement is that construction fences be locked during prohibited hours. What happens if the entire crew decides to take a lunch break at the same time? I believe it would be safer to require fences to be locked whenever workers are not present.

SECTION XX 3.5 I would like to see a provision added that requires any damage caused by construction/construction vehicles to the site, such as lawns, landscaping, etc., be brought back to current code before final is issued.

### HOURS CONSTRUCTION IS ALLOWED:

I don't understand the reasoning behind moving the start time, Mon-Fri., up an hour from 7am to 8am. Most people are getting ready for work and school by 7. In addition, most construction work stops shortly after 4. Switching to 8am loses an important early morning hour before the hottest part of the day. This is especially crucial for roofing.

### SATURDAY HOURS 11-6, NO WORK ON FEDERAL HOLIDAYS.

Both of those provisions are incredibly onerous, especially to Do It Yourselfers. If you work Monday through Friday you need a full day Saturday and often your days off to do work of any significance. In the winter it's dark shortly after 5. In the summer many people won't want to do much in the hottest part of the day, so these hours amount to less than 7. Even if you hire someone with most construction ending shortly after 4 we're now talking only 5 hours. Likely not cost affective to bring in a crew and equipment for such a short time. In addition,

most in private industry do not observe Federal Holidays such as MLK Day, Presidents Day, Veterans Day. If your job goes over those days there's a possibility that company will simply move on to another job and you wait your turn for them to come back. No company is going to keep a crew idle.

These restrictive hours also affect inside work such as tile work, wood work, cabinetry - three examples of work that requires the use of saws which one would normally go outside to use.

I understand the point of people wanting to sleep in or just relax on a Saturday but consider those who work 2<sup>nd</sup> or 3<sup>rd</sup> shifts. They need to relax and/or sleep during the day and not just Saturday. Do we then restrict construction to 11-6 Monday through Saturday? What about pressure washing and lawn mowing? Both generate a considerable amount of noise likely equal to construction equipment. Do we now tell people they must do those activities only in the hottest part of the day?

The ordinance currently has a provision for the building inspector to grant a permit for work during prohibited hours. I see several problems with that. First, it's subjective. I strongly believe ordinances should be as tight and objective as possible. It means an additional cost to the property owner. Then there is the element of time. We recently had a new driveway installed. The project happened to fall during the time we were getting all those heavy rains and effects from the tropical storm. At the last minute our contractor needed to work that full Saturday to make up for lost time. There would not have been time to get an additional permit.

REQUIREING BUILD PLANS/PERMITS PRIOR TO CONSTRUCTION FENCE PERMIT. If we had that requirement in the past likely the very unsightly, very unsafe structure that once stood on the currently empty lot on 7<sup>th</sup> at 113, would still be there. Clearly the owners have no interest in building anything. That structure had a caved in roof, tree growing out of it, was an attractive nuisance for kids and vagrants and a haven for vermin and wildlife. I understand the concerns about taxable value, but I am quite sure this structure likely brought down the taxable value of the surrounding properties.

NEVER ENDING CONSTRUCTION PROJECTS: Since this seems to be one of our biggest issues, I would suggest the following:

All permits to be valid for 6 months maximum. They can be renewed (with applicable charges) one time. Each subsequent renewal requires going back in front of P&Z to justify situation and get approval.

If a permit expires prior to completion of work and is not renewed within 30 days project would be deemed abandoned and dwelling must be put back to current code standards. Code officer to determine amount of time allowed.

QUESTIONS:

ENFORCERMENT AND PENALTIES: It lists a \$250 daily fine. Is that per day per infraction? Can it be automatically assessed just like Administrative Citations?

Can fines be assessed to the contractor/permit holder rather than the property owner?

If there are any open citations can any further permits be denied until infractions rectified and fines paid?

**Comments from LINDA DILLON – Code Compliance Board member**

**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**

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**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.