

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49

**ORDINANCE NO. 2021-13**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 5.6 “OFF-STREET PARKING” OF CHAPTER 5 “TRANSPORTATION” OF THE BISCAYNE PARK LAND DEVELOPMENT CODE TO LIMIT APPROVED PARKING SURFACES TO ONLY FORTY PERCENT (40%) OF THE FRONT YARD, AND REQUIRING THAT THE REMAINDER OF THE FRONT YARD CONSIST OF LANDSCAPING AND GREEN AREA; REQUIRING THAT ALL PARKING SURFACES SHALL BE OF ONE MATERIAL AND OF UNIFIED DESIGN THROUGHOUT; AMENDING AND CLARIFYING THE ALLOWABLE MATERIALS FOR PARKING SURFACES; PROVIDING THAT CONCRETE PARKING SURFACES CAN BE PAINTED SUBJECT TO THE LIMITATIONS SET FORTH THEREIN; PROVIDING FOR DRAINAGE AND MAINTENANCE REQUIREMENTS; REQUIRING THAT ANY IMPROVEMENTS TO FIFTY PERCENT (50%) OR MORE OF A PARKING SURFACE SHALL REQUIRE THAT THE ENTIRE PARKING SURFACE BE IMPROVED; 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’s Land Development Regulations currently sets forth minimum parking requirements and driveway standards; and

**WHEREAS**, the Village Commission finds it is in the best interest of the Village to adopt this Ordinance to update the Village’s off-street parking requirements.

**WHEREAS**, on October \_\_, 2021, 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 recommends its adoption; and

**WHEREAS**, on October \_\_, 2021 the Village Commission held a first reading and public hearing of this proposed Ordinance; and

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

1 NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAYNE PARK,  
2 FLORIDA AS FOLLOWS:<sup>1</sup>  
3

4 **Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this  
5 reference and are hereby adopted as the legislative and administrative findings of the Village Commission.  
6

7 **Section 2. Amendment to Chapter 5 of the Land Development Code.** Chapter 5 of the  
8 Land Development Code of Ordinances, Village of Biscayne Park, Florida is hereby amended as follows  
9

10 **CHAPTER 5 – TRANSPORTATION**

11 \*\*\*

12 **5.6. Off-street parking.**

13  
14  
15 5.6.1 *Applicability.* Off-street parking facilities shall be provided within each property in the village  
16 pursuant to the requirements of this code. The facilities shall be maintained as long as the use exists  
17 that the facilities were designed to serve.  
18

19 (a) All vehicles must be parked on an approved parking surface subject to the design standards set  
20 forth in section 5.6.8.

21 (1) Nonconforming residential properties that do not have an approved parking surface, including  
22 an approved approach, shall have one (1) year from the date of enactment of this ordinance to  
23 have the compliant parking surface permitted and installed.

24 (2) Existing nonconforming parking surfaces permitted by the village may remain unless a  
25 substantial portion, fifty (50) percent or greater, requires repair or an addition to the parking  
26 surface occurs.

27 (3) When an approved parking surface exists, all vehicles shall park on said approved parking  
28 surface effective upon enactment of this ordinance.

29 5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on the  
30 maximum capacity rating given the building by the fire marshal. Gross floor area shall be the sum  
31 of the gross horizontal area of all floors of a building measured from the exterior faces of the  
32 exterior walls.

33 5.6.3 *Number of parking spaces required.* The table below specifies the required minimum number of  
34 off-street parking spaces. The number of off-street parking spaces for uses not listed in the table  
35 shall be determined by the planning board. The term "tandem parking space" means a parking  
36 space that abuts a second parking space in such a manner that vehicular access to the second space  
37 can be made only through the abutting (tandem) space.  
38

Use		Minimum Off-Street Parking Requirement	
		Resident Parking	Visitor Parking
(a)	<b>Residential</b>		
	Detached one-family:		
	1, 2 and 3 bedrooms	2 spaces*	1 space**
	4 bedrooms	3 spaces*	1 space**
	Duplexes/attached and detached:		

39  
40  
41  
42  
43  
44  
45  
46  
47  
48 <sup>1</sup> Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline,  
49 and deletions are shown as ~~strike through~~.

	1, 2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**
(b)	<b>Recreation area:</b>		
	Determined by the planning board.		
(c)	<b>Public assembly/service:</b>		
	Church: 1 space/3 seats or 1 space/35 square feet of gross floor area		
(d)	<b>Government buildings:</b>		
	1 space/300 square feet of gross floor area		

~~§ 9~~\* Resident parking spaces may be tandem.

~~§ 9~~\*\* If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than one hundred (100) feet from the unit's street frontage.

5.6.4 *Handicapped parking spaces.* Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of F.S. §§ 316.1955, and 316.1956, or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with subsection 5.6.3, public uses, above, but supplemental spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the Village Code.

5.6.5 *Parking in medians prohibited.* No parking shall be allowed in median open spaces or median parkways.

5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-street parking spaces existing on properties at the time of the adoption of this code, although such number does not conform to the minimum off-street parking requirements hereof, may be lawfully continued. However, all vehicles must be parked on an approved parking surface consistent with section 5.6.1.

5.6.7 *Historic preservation exemption.* The preservation of any property that has been placed on the county or national register of historic places, shall be grounds for a grant by the ~~Planning review~~ ~~Board~~ of a reduction in, or complete exemption from, the parking requirements in subsection 5.6.3 of this chapter.

5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel. ~~The size and layout of these spaces shall be according to the Miami-Dade County Code and Public Works Manual, Miami-Dade County.~~

~~(a) Vehicles shall be parked on impervious or pervious an approved parking surface, but impervious areas~~ Approved parking surfaces shall not exceed forty (40) percent (40%) of the front yard, excluding the right-of-way. The remainder of the front yard shall consist of landscaping and green area.

~~(b) Off-street parking (within the lot lines of all properties) shall only be permitted on approved surfaces by the Village of Biscayne Park. In no circumstances shall grass or sod be an approved surface.~~

~~(a) All parking surfaces shall be of approved materials except as otherwise provided below.~~

1 ~~(b)~~(c) All parking surfaces must have an improved driveway approach across the swale which  
2 shall be of the same material and design as the remainder of the improved parking surface. All  
3 parking surfaces shall be of one material and of unified design throughout. ~~meet the minimum~~  
4 standard of gravel construction.

5 ~~(e)~~ (d) Setbacks. All parking surfaces shall be no closer than thirty (30) inches from side property  
6 line unless exempted below in subsection ~~(d)~~ (1).

7 ~~(d)~~ (1). All nonconforming parking surfaces, as related to setback, shall come into  
8 compliance when there is a change in parking surface material or the installation of a  
9 new parking surface. If a determination is made by the village manager or designee that  
10 adhering to the setback would make the parking surface nonfunctional, the village  
11 manager may waive this requirement in writing.

12 (e) Surfacing. Parking surfaces shall only be constructed with one of the following materials:  
13 concrete, paver, brick, gravel, asphalt, cut stone, ~~or~~ turf block, or TRuGrid or similar material.

14 (1) As used herein, the term asphalt does not include milled asphalt. Milled asphalt is a  
15 prohibited parking surface.

16 (2) As used herein, the term gravel does not include limestone gravel. Limestone gravel  
17 and crushed limestone are prohibited parking surfaces.

18 (3) In no circumstances shall grass or sod be an approved parking surface.

19 (4) Use of artificial turf is limited solely for decorative and trim purposes. Artificial  
20 turf is a prohibited parking surface.

21 (f) Gravel parking surfaces. Gravel parking surfaces shall be built with a permanent perimeter  
22 border consisting of suitable material as approved by village staff a minimum of four (4) inches  
23 deep with the width of the border being sixteen (16) inches immediately adjacent to the road  
24 perimeter and four (4) inches along the entire length of both edges of the parking surface.  
25 Gravel parking surfaces shall have a finished top layer of dense grade gravel, such as pea  
26 gravel, jersey shore gravel, marble chips, or river rock, with an average diameter of ½" or  
27 greater.

28 (g) Concrete parking surfaces. Concrete parking surfaces may be painted, stained, or otherwise  
29 colorized with a color that is the same or substantially similar to a color within the paint palette  
30 established and approved by the Village Commission. Any variation from this standard shall  
31 be subject to review and approval by the Planning Board.

32 (h) Borders.

33 (1) the borders of all parking surfaces shall be landscaped or sodded. In no event shall  
34 the borders of any parking surface remain bare with exposed soil.

35 (2) the borders of all parking surfaces shall be maintained in such a manner so that it is  
36 flush or level with the parking surface. Raised parking surfaces are prohibited.

37  
38 5.6.9. Drainage. All parking surfaces shall be properly and sufficiently graded and drained so as to  
39 prevent causing an increased burden or nuisance upon adjoining private and public property, including the  
40 right-of-way, by reason of runoff water.

41  
42 5.6.10. Maintenance. Once a parking surface is constructed, the property owner shall be responsible for  
43 maintaining and repairing said parking surface in a manner to ensure that it is free of cracks and potholes.  
44 For asphalt parking surfaces, regular maintenance shall include sealing of the asphalt.

45  
46 5.6.11. Partial parking surface improvements. Any repairs or improvements to 50% or more of a parking  
47 surface shall require that the property owner replace the entire parking surface.

1 5.6.12. Restoration following construction or removal of parking surface. If all or part of a parking surface  
2 is removed, the portions wherein the parking surface previously existed shall be restored with sod or  
3 landscaping.

4  
5 5.6.13. Indemnification. Construction of a portion of a parking surface in the swale or right-of-way,  
6 such as the apron and parking surface approach, shall require the property owner to indemnify, hold  
7 harmless, and defend the village from any and all actions, caused by, resulting from, or in any way  
8 associated with the proposed work within the village right-of-way on a form provided by the village.

9  
10 **Section 3. Inclusion in the Code & Scrivener's Errors.** The Village Commission intends  
11 that the provisions of this Ordinance be made a part of the Biscayne Park Code, and that sections herein  
12 may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish  
13 codification; regardless, typographical errors that do not affect intent may be corrected with notice to and  
14 authorization of the Village Manager without further process.

15  
16 **Section 4. Conflicts.** Whenever the requirements or provisions of this Ordinance are in  
17 conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most  
18 restrictive shall apply.

19  
20 **Section 5. Severability.** If any section, subsection, sentence, clause or phrase of this  
21 Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,  
22 such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the  
23 part so declared.

24  
25 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption by the  
26 Village Commission.

27  
28 PASSED AND ADOPTED upon first reading this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

33  
34 Virginia O'Halpin, Mayor \_\_\_\_\_  
35 Judi Hamelburg, Vice Mayor \_\_\_\_\_  
36 Arturo Jose Gonzalez, Commissioner \_\_\_\_\_  
37 MacDonald Kennedy, Commissioner \_\_\_\_\_  
38 Dan Samaria, Commissioner \_\_\_\_\_  
39  
40  
41  
42

43 PASSED AND ADOPTED upon second reading this \_\_\_\_ day of \_\_\_\_\_, 2021.

44  
45 The foregoing Ordinance was offered by \_\_\_\_\_, who moved its  
46 adoption. The motion was seconded by \_\_\_\_\_, and upon being put to a vote  
47 the vote was as follows:  
48  
49

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49

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

VILLAGE OF BISCAYNE PARK

\_\_\_\_\_  
Virginia O’Halpin, Mayor

ATTEST:

\_\_\_\_\_  
Roseann Prado, Village Clerk

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

\_\_\_\_\_  
Edward A. Dion, Village Attorney