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ORDINANCE NO. 2026-

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 16.13 “EXTERIOR PAINTING PERMIT” OF CHAPTER 16 “PERMITS AND CERTIFICATES” OF THE BISCAYNE PARK LAND DEVELOPMENT CODE TO ENSURE THE PROVISION IS IN CONFORMITY WITH SECTION 166.0483, FLORIDA STATUTES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 166, 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 empowers the Village Commission to adopt, amend, or repeal such ordinances as may be required for the proper governing of the Village; and

WHEREAS, Section 16.13 of the Land Development Code (“LDC”) of the Village of Biscayne Park (“Village”) requires a property owner desiring to paint the exterior of a residence to seek approval of the paint color from the Planning and Design Review Board; and

WHEREAS, the approval process requires the application and issuance of an Exterior Painting Permit; and

WHEREAS, Section 166.0483, Florida Statutes prohibits a local government from requiring an owner of a residence to obtain a permit to paint such residence; and

WHEREAS, it is necessary to amend the Village LDC to remove the permit requirement for the approval for the painting of the exterior of a residence, and clarify that a property owner is required to apply to the Planning and Design Review Board (“Board”) for approval of the paint color (base and trim color) by filing an application with the Board for approval of the paint color; and

WHEREAS, on _____, 202_, the Village Planning and Design Review Board, sitting as the Local Planning Agency for the Village, held a hearing on this proposed Ordinance with due public notice and input, and recommends its adoption; and

WHEREAS, on _____, 202_, the Village Commission held a first reading and public hearing of this proposed Ordinance; and

WHEREAS, on _____, 202_, the Village Commission held a second reading and public hearing of this proposed Ordinance with due public notice and input; and

WHEREAS, the Village Commission finds that it is in the best interest of the health, safety, and welfare of the residents of the Village to adopt this Ordinance; and

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

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

7
8 **Section 2. Amendment to the Land Development Code.** Chapter 16, Section 16.13
9 “Exterior Painting Permit” of the Land Development Code of Ordinances of the Village of Biscayne Park,
10 Florida is hereby amended to read as follows:

11
12 **APPENDIX A – LAND DEVELOPMENT CODE**

13
14 ***

15
16 **PART III – ADMINISTRATION**

17
18 ***

19
20 **Chapter 16. PERMITS AND CERTIFICATES**

21
22 **16.13. Exterior painting application permit.**

23
24 16.13.1 *Permit Application Required.* An application Permits shall be submitted to
25 the Planning and Design Review Board required for approval of the color palette of any
26 exterior painting. The application and the applicant shall contain submit a sample of the
27 desired paint color(s). Said color(s) shall be approved or disapproved by the planning board
28 in accordance with subsection 10.3.1. Trim color shall not exceed thirty (30) percent of the
29 total square footage of all vertical surface areas.

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31
32 **Section 3. Inclusion in the Code.** The Village Commission intends that the provisions of this
33 Ordinance be made a part of the Biscayne Park Code, and that sections herein may be re-numbered or re-
34 lettered and the words or phrases herein may be changed to accomplish codification.

35
36 **Section 4. Conflicts.** Whenever the requirements or provisions of this Ordinance conflict with
37 the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall
38 apply. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the
39 extent of such conflict.

40
41 **Section 5. Scrivener’s Errors.** Any scrivener or typographical error that does not affect the
42 intent of this Ordinance may be corrected with notice to the Village Attorney, Village Clerk, and Village
43 Manager without further action or process required.

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48 ¹/ Additions to existing text are shown by underline, changes to existing text on second reading are
49 shown by double underline, and deletions are shown as ~~strikethrough~~.

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

5
6 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption by the
7 Village Commission.

8
9 PASSED AND ADOPTED upon first reading this ____ day of _____, 2026.

10
11 PASSED AND ADOPTED upon second reading this ____ day of _____, 2026.

12
13 The foregoing Ordinance was offered by _____, who moved its
14 adoption on second reading. The motion was seconded by _____, and upon
15 being put to a vote the vote was as follows:

16
17 Johnathan Groth, Mayor _____
18 Veronica Amsler, Vice Mayor _____
19 Art Gonzalez, Commissioner _____
20 Daniel Samaria, Commissioner _____
21 Ryan Huntington, Commissioner _____
22

23
24 **VILLAGE OF BISCAYNE PARK**

25
26
27 _____
28 Johnathan E. Groth, Mayor
29

30
31 **ATTEST:**

32
33
34 _____
35 Pamela L. Latimore, Village Clerk
36

37
38 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE**
39 **USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:**

40
41
42 _____
43 John R. Herin, Jr./Fox Rothschild, LLP
44 Village Attorney
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