



VILLAGE OF KEY BISCAYNE

Village Council

Joe. I. Rasco, Mayor
Brett G. Moss, Vice Mayor
Franklin H. Caplan
Edward London
Allison McCormick
Oscar Sardiñas
Fernando A. Vazquez

LOCAL PLANNING AGENCY MEETING WEDNESDAY, FEBRUARY 15, 2023 6:15 PM

1. CALL TO ORDER/ROLL CALL OF MEMBERS

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES:

- 3.A. AUGUST 24, 2022 MINUTES
(LOCAL PLANNING AGENCY MEETING)

[TAB 1](#)

4. ORDINANCES:

PUBLIC MEETING AND RECOMMENDATION OF VILLAGE COUNCIL SITTING AS THE LOCAL PLANNING AGENCY ON THE FOLLOWING PROPOSED ORDINANCES:

- 4.A. **AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE OF ORDINANCES CREATING SECTION 30-42, "DEVELOPMENT INCENTIVES FOR STORMWATER MANAGEMENT"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

[TAB 2](#)

- 4.B. **AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA,**

AMENDING SECTION 30-199, "LEGAL NONCONFORMING SIGNS," OF CHAPTER 30 OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE CONTINUATION, RECONSTRUCTION, AND ALTERATION OF LEGAL NONCONFORMING MONUMENT SIGNS IN THE MULTIFAMILY AND PLANNED UNIT DEVELOPMENT ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

5. ADJOURNMENT

I. ANY PERSON WISHING TO ADDRESS THE VILLAGE COUNCIL ON AN ITEM ON THIS AGENDA IS ASKED TO REGISTER WITH THE VILLAGE CLERK PRIOR TO THAT ITEM BEING HEARD. PRIOR TO MAKING A STATEMENT, PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD. II. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS PROCEEDING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK, 88 WEST MCINTYRE STREET, KEY BISCAYNE, FLORIDA 33149, TELEPHONE NUMBER (305) 365-5506, NOT LATER THAN TWO BUSINESS DAYS PRIOR TO SUCH PROCEEDINGS. III. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY 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 (F.S.286.0105). IV. IN ACCORDANCE WITH VILLAGE CODE SECTION 2-161, ADOPTING SECTION 2-11.1(s) OF THE MIAMI-DADE COUNTY CODE, ANY PERSON ENGAGING IN LOBBYING ACTIVITIES, AS DEFINED THEREIN, MUST REGISTER AT THE VILLAGE CLERK'S OFFICE BEFORE ADDRESSING THE COUNCIL ON THE ABOVE MATTERS OR ENGAGING IN LOBBYING ACTIVITIES.

THE ABOVE MEETINGS ARE HELD IN THE COUNCIL CHAMBER, 560 CRANDON BOULEVARD AND ARE SUBJECT TO CHANGE. ZONING MEETINGS AND SPECIAL COUNCIL MEETINGS WILL BE SCHEDULED ON AN AS NEEDED BASIS. PLEASE VISIT www.keybiscayne.fl.gov TO VIEW THE MEETING SCHEDULE.

MINUTES

LOCAL PLANNING AGENCY
KEY BISCAYNE, FLORIDA

TUESDAY, AUGUST 24, 2022

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Mayor at 5:45 p.m. Present were Councilmembers Franklin H. Caplan, Luis Lauredo, Edward London (arrived at 5:49 p.m.), Allison McCormick, Ignacio Seguro, Vice Mayor Brett G. Moss (arrived at 5:46 p.m.) and Chairman Michael W. Davey. Also present were Village Manager Steven C. Williamson, Village Clerk Jocelyn B. Koch, and Village Attorney Chad Friedman.

2. **PLEDGE OF ALLEGIANCE:** Chairman Davey led the Pledge of Allegiance.

3. **APPROVAL OF MINUTES:** Chairman Davey made a motion to approve the minutes of the February 8, 2022 Local Planning Agency Meeting. The motion was seconded by Councilmember Caplan and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Seguro, and Chairman Davey voting Yes.

The minutes to the February 8, 2022 Local Planning Agency Meeting.

4. **ORDINANCES:** A public hearing and recommendation of the Village Council sitting as the Local Planning Agency on the following proposed ordinances.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT-BASED AMENDMENTS TO THE COMPREHENSIVE PLAN; PROVIDING FOR TRANSMITTAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Davey made a motion to recommend the adoption of the ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Councilmember Caplan.

The Attorney addressed the Village Council regarding the procedures for the Local Planning Agency.

The Chairman opened the public hearing. There were no speakers present. The Chairman closed the public hearing.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 6-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Segurola, Vice Mayor Moss, and Chairman Davey voting Yes.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-197 OF ARTICLE VIII, "SIGNS," OF CHAPTER 30 OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE PLACEMENT OF SIGNS ON DECORATIVE ARCHITECTURAL FEATURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Moss made a motion to recommend the adoption of the ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Chairman Davey.

The Chairman opened the public hearing. There were no speakers present. The Chairman closed the public hearing.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 6-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Segurola, Vice Mayor Moss, and Chairman Davey voting Yes.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES, BY AMENDING SECTION 30-112 "SCHEDULE OF DISTRICT, USE, AND SETBACK REGULATIONS," RELATING TO OUTDOOR DINING REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Chairman Davey made a motion to recommend the adoption of the ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Vice Mayor Moss.

The Chairman opened the public hearing. There were no speakers present. The Chairman closed the public hearing.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Seguro, Vice Mayor Moss, and Chairman Davey voting Yes.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES, BY COMPREHENSIVELY AMENDING, CREATING, AND UPDATING REGULATIONS RELATING TO BICYCLE AND GOLF CART REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Chairman Davey made a motion to recommend the adoption of the ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Councilmember Caplan.

The Chairman opened the public hearing. There were no speakers present. The Chairman closed the public hearing.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Seguro, Vice Mayor Moss, and Chairman Davey voting Yes.

4. **ADJOURNMENT:** The meeting was adjourned at 5:52 p.m.

Respectfully submitted:

Jocelyn B. Koch
Village Clerk

Approved this _____ day of _____ 2023:

Joe I. Rasco
Mayor

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY 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.



VILLAGE OF KEY BISCAINE

MEMORANDUM

Village Council
Joe I. Rasco, Mayor
Franklin H. Caplan, Vice Mayor
Brett G. Moss
Edward London
Allison McCormick
Oscar Sardiñas
Fernando A. Vazquez

Village Manager
Steven C. Williamson

DATE: February 15, 2023
TO: Honorable Mayor and Councilmembers
THRU: Steven C. Williamson, Village Manager
FROM: Jeremy Calleros-Gauger, Director
Building, Zoning, and Planning
RE: Building Incentives for Stormwater Easements

PURPOSE OF MEMORANDUM

This memo describes the reasoning behind the recommendation to approve an Ordinance to allow incentives when property owners dedicate easements for stormwater infrastructure.

BACKGROUND

Incentives are a tool governments can use to encourage the placement of public infrastructure on private property. For new projects, incentives can be incorporated into the development processes, such as building permits and stormwater permits to creatively encourage inclusion of public infrastructure. In already developed areas, incentives can be designed to encourage private property owners to retrofit their properties to include public infrastructure where they do not already exist. Development incentives can offer property owners additional square footage, uses, or relaxed requirements for setbacks.

The proposed ordinance seeks to incentivize eligible residential and commercial property owners zoning by providing flexibility in exchange for giving the Village a stormwater easement. An easement in perpetuity can be used for the purposes of supplying a dedicated area for stormwater facilities including, but not limited to, pump stations, generators, stormwater ponds, underground pipes, outfalls, etc. The following are some of the proposed incentives that may be offered:

- In single family and two-family residential developments:
 1. Allow additional third story square footage. While this may be beneficial to any residential property on the island, this may also be beneficial particularly to those properties that are located on atypical or irregular lots where the placement of a third story is difficult. The land development regulations currently limit the third story area to 600 square feet. With these incentives in place, that additional third story square footage could potentially go beyond what is currently allowed.



VILLAGE OF KEY BISCAINE

- In commercial developments:
 1. Allow the flexibility of a 0.05 Floor-Area-Ratio (FAR) bonus.

Current zoning regulations allow public utilities as an accessory use

REVIEW CRITERIA

The Village's procedures for a text change provides for the amendment of the Zoning and Land Development Regulations provided that such amendments are consistent with the following criteria per Sec. 30-71(b) of the Village Ordinances:

Criteria 1	The proposed amendment is consistent with the Comprehensive Plan.
Analysis	This amendment is consistent with Goal 2 of the Future Land Use Element of the Village of Key Biscayne's Comprehensive Plan better known as the Master Plan. The goal is to "protect and enhance the residential, commercial, resort and natural resource areas of Key Biscayne" which this ordinance aims to do.
Finding	Consistent
Criteria 2	The proposed change will result in Buildings that are consistent in scale and otherwise compatible with those within 300 feet of the site.
Analysis	This ordinance would otherwise allow a greater third story area than what is currently allowed. However, the limits of the maximum floor-area-ratios permitted would remain unchanged. In residential districts, these changes would simply allow for greater flexibility in the distribution of floor areas rather than limiting a third story to 600 SF. In commercial districts, the flexibility is achieved through an additional bonus option from the list of already existing bonuses for commercial development.
Finding	Consistent
Criteria 3	The resulting boundaries of a zoning district are logically drawn.
Analysis	Regulations apply to the single family and two-family residential and commercial zoning districts primarily on the west side of the island. These districts are located in the area most in need of stormwater infrastructure, particularly locations adjacent to the Bay.



VILLAGE OF KEY BISCAINE

Finding Consistent

Criteria 4 The proposed changes will enhance property values in the Village.

Analysis There is a great potential for increases in property values as these regulations will allow there to be a mechanism for certain areas to be dedicated for future stormwater facilities thereby subsequently reducing flooding on the island.

Finding Consistent

Criteria 5 The proposed change will enhance the quality of life in the Village.

Analysis These regulations aim to address the flooding concerns long-known to the residents of Key Biscayne. Introducing laws that allow for public facilities to be placed within private properties will have the potential to enhance the quality of life by addressing flooding issues village wide.

Finding Consistent

Criteria 6 There are substantial and compelling reasons why the proposed change is in the best interests of the Village.

Analysis The proposed ordinance seeks to allow both residential and commercial property owners zoning flexibility in exchange for providing the Village with a stormwater easement. An easement in perpetuity can be used for the purposes of providing a dedicated area for stormwater facilities including, but not limited to, pump stations, generators, stormwater ponds, underground pipes, and outfalls, among other facilities.

Finding Consistent

CONCLUSION

Based on findings, relevant background information, and consistency with the review criteria under Chapter 30-71(b), staff recommends that Council approve requested changes.

These incentives would be strictly bound by a determination of need for the overall benefit of the



VILLAGE OF KEY BISCAYNE

Village as determined by the Administration, particularly the Public Works and Building, Zoning, and Planning Directors with final approval by the Village Manager. Details of any agreement will be recorded with the Property Appraiser as a modification to the site survey and via a covenant approved by the Village Council.

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE OF ORDINANCES CREATING SECTION 30-42, "DEVELOPMENT INCENTIVES FOR STORMWATER MANAGEMENT"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") has adopted Zoning and Land Development Regulations in order to promote the health, safety, order, convenience, comfort, and general welfare of the public, and to promote and preserve the character and ecological quality of the Village as articulated in the Village's Comprehensive Plan; and

WHEREAS, the Village Council finds it periodically necessary to amend its Code of Ordinances in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, the Village Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

WHEREAS, the Village Council finds that this Ordinance is in the best interest of the Village's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:¹

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Chapter 30 of the Village Code.** That the Code of Key Biscayne, Florida, is hereby amended by adding a section to be numbered Section 30-42, which section reads as follows:

CHAPTER 30 - ZONING AND LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE III. - GENERAL PROVISIONS

* * *

Section 30-42. – Development Incentives for Stormwater Management

The Director may grant development incentives if a more sustainable Site design is used in conjunction with the provision of a stormwater Easement. These incentives shall be based on the

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline.

feasibility of any proposed location and whether said Site is suitable for the purposes of long-term stormwater management infrastructure planning. The following development incentives shall be made available if the property owner provides the Village with a stormwater Easement that is approved by the Director:

- (1) For Single Family and Two-Family Residential districts, the maximum Floor Area for an additional Story above the second Story, shall not exceed 30 percent of the Floor Area of the Main Permitted Use or 1,000 square feet, whichever is smaller. However, in no event shall the maximum Floor Area Ratio exceed the limitations provided in Section 30-100.
- (2) For all other districts except Single Family and Two-Family Residential districts a Floor Area Ratio bonus of up to 0.05 may be applied. However, in no event shall the Floor Area Ratio exceed the maximum allowable Floor Area Ratio for the applicable zoning district.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions, or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the _____ day of _____, 2023.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2023.

JOE I. RASCO
MAYOR

ATTEST:

JOCELYN B. KOCH
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY



VILLAGE OF KEY BISCAINE

MEMORANDUM

Village Council
Joe I. Rasco, Mayor
Franklin H. Caplan, Vice Mayor
Brett G. Moss
Edward London
Allison McCormick
Oscar Sardiñas
Fernando A. Vazquez

Village Manager
Steven C. Williamson

DATE: February 15, 2023
TO: Honorable Mayor and Councilmembers
THRU: Steven C. Williamson, Village Manager
FROM: Jeremy Calleros Gauger, Director – Building,
Zoning, & Planning Department
RE: Zoning and Land Development Regulation Amendment
regarding Monument Signs

PURPOSE OF MEMORANDUM

This memo describes the reasoning behind the recommendation to approve an Ordinance which will allow improvements to existing, stand-alone signs at multi-family building locations.

BACKGROUND

On March 9, 1993, the Village of Key Biscayne adopted a Sign Code to regulate signage within the border of the Village (Ordinance 93-4) which allowed monument signs for multi-family dwellings with certain conditions. This ordinance called for nonconformities created by subsequent amendments to be completely removed within 5 years.

On 12th of October 2010, the Village of Key Biscayne modified the Sign Code and added monument signs to the list of prohibited signs.

Per provisions of the original Sign Ordinance, monument signs should have been removed by October of 2015. The Village did not uniformly enforce this provision of the code and thus, require removal of monument signs.

REVIEW CRITERIA

The Village's procedures for a text change provides for the amendment of the Zoning and Land Development Regulations provided that such amendments are consistent with the following criteria per Sec. 30-71(b) of the Village Ordinances:

Criteria 1 The proposed amendment is consistent with the Comprehensive Plan.

Analysis Goal 1 regarding community character. Shall limited (sic) signs to the minimum amount consistent with reasonable identification of retail and other non-residential uses. The changes proposed are consistent with the



VILLAGE OF KEY BISCAYNE

intent and purpose of the goals, objectives, and policies stated on the Village of Key Biscayne's Master Plan (Comprehensive Plan).

Finding Consistent

Criteria 2 The proposed change will result in buildings that are consistent in scale and otherwise compatible with those within 300 feet of the site.

Analysis This ordinance limits improvements to existing signs which will not allow for expansion of monument signs but only allow improvements to existing signs which will maintain consistent with buildings in the proximity.

Finding Consistent

Criteria 3 The resulting boundaries of a zoning district are logically drawn.

Analysis The changed regulations apply only to multi-family districts. This will limit the aesthetic impact of monument signs while allowing easy identification of multi-family properties.

Finding Consistent

Criteria 4 The proposed change will enhance property values in the Village.

Analysis This ordinance allows existing signs to be repaired and substantially improved which will enhance the value of those properties.

Finding Consistent

Criteria 5 The proposed change will enhance the quality of life in the Village.

Analysis Improvements and repairs to existing signs while not expanding the amount of signage will enhance the quality of life.

Finding Consistent

Criteria 6 There are substantial and compelling reasons why the proposed change is in the best interests of the Village.



VILLAGE OF KEY BISCAYNE

Analysis

Several existing signs have not been repaired due to previous ordinances. Furthermore, it is desirable to create regulations which are consistently enforced.

Finding

Consistent

CONCLUSION

Based on findings, relevant background information, and consistency with the review criteria under Chapter 30-71(b), staff recommends that Council approve requested changes.

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-199, "LEGAL NONCONFORMING SIGNS," OF CHAPTER 30 OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE CONTINUATION, RECONSTRUCTION, AND ALTERATION OF LEGAL NONCONFORMING MONUMENT SIGNS IN THE MULTIFAMILY AND PLANNED UNIT DEVELOPMENT ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Key Biscayne (the "Village") has adopted regulations regulating signage within the Village under Article VIII of Chapter 30 of the Village Code of Ordinances (the "Code"); and

WHEREAS, the Village Council finds it periodically necessary to amend its Code in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, the Village Council desires to amend Section 30-199, "Legal Nonconforming Signs," to allow legal nonconforming monument signs to be continued, reconstructed, or altered in the Low Density Multiple Family (RM-10), Medium Density Multiple Family (RM-16), High Density Multiple Family (RM-30), Ocean Club (PUD-1), Grand Bay (PUD-2), and Key Colony (PUD-3) zoning districts as long as the sign is not expanded or extended and sign illumination is not intensified; and

WHEREAS, the Village Council finds that adoption of this Ordinance is in the best interest and welfare of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amending Section 30-199, "Legal Nonconforming Signs," of the Village Code. That Section 30-199, "Legal Nonconforming Signs," of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

CHAPTER 30 – ZONING AND LAND DEVELOPMENT REGULATIONS

ARTICLE VIII. – SIGNS

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline.

Section 30-199. Legal Nonconforming Signs.

- (a) *Amortization of 1993 Sign Code Nonconformities.* Any Sign that lawfully existed at the time this chapter [Ordinance No. 93-4] became effective may be continued, although it does not conform to all the provisions hereof, provided that no structural Alterations are made thereto and that all such Nonconforming Signs shall be completely removed from the Premises or made to conform by December 31, 1996. If the owner of a Sign can document the facts that (1) the Sign was installed or renovated after January 1, 1990, (2) the Sign is in sound condition, and (3) the cost of such Sign or renovation exceeded \$3,000.00, then the Council may extend the amortization period up to May 1, 1998.
- (b) *Exception to amortization schedule.* Nonconforming Banner Signs, Buntings, Portable Signs and Snipe Signs, as well as prohibited Signs placed on public property and utility poles, shall be removed within three months of the effective date of this chapter.
- (c) *Nonconformities created by amendments to this Sign ordinance.* Any Sign which may become nonconforming as a result of any subsequent amendments to this chapter shall be completely removed from the Premises, or altered to conform, not later than five years from the date such Sign becomes nonconforming.
- (d) *Other termination of legal Nonconforming Signs.*
 - (1) By abandonment: Abandonment of a legal Nonconforming Sign shall terminate its nonconforming status.
 - (2) By damage or poor condition: The legal nonconforming status of a Sign shall cease whenever the Sign is damaged beyond 50 percent as determined by the Village Manager from any cause whatever, or to the extent the Sign becomes a hazard or danger.
 - (3) Abandoned and damaged Signs, as described in this section, shall be removed by owners in accordance with the requirements of section 30-201.
- (e) *Continuation of legal Nonconforming Signs.* Notwithstanding the foregoing, legal nonconforming Monument Signs located in the Low Density Multiple Family (RM-10), Medium Density Multiple Family (RM-16), High Density Multiple Family (RM-30), Ocean Club (PUD-1), Grand Bay (PUD-2), and Key Colony (PUD-3) zoning districts may be continued, reconstructed, or altered as long as the Monument Sign is not expanded or extended and sign illumination is not intensified.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to

accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. **Conflicts.** That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the _____ day of _____, 2023.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2023.

JOE I. RASCO
MAYOR

ATTEST:

JOCELYN B. KOCH
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

