



VILLAGE OF KEY BISCAYNE

Village Council

Joe I. Rasco, Mayor
Michael F. Bracken
Franklin H. Caplan
Edward London
Oscar Sardinas
Nancy Stoner
Fernando A. Vazquez

LOCAL PLANNING AGENCY MEETING

TUESDAY, DECEMBER 17, 2024
6:15 PM

1. CALL TO ORDER/ROLL CALL OF MEMBERS

2. APPROVAL OF MINUTES:

- 2.A. AUGUST 27, 2024 MINUTES
(LOCAL PLANNING AGENCY MEETING)

[TAB 1](#)

3. PUBLIC COMMENTS:

4. ORDINANCE:

4.A.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, **DELETING SECTION 30-39, "APPEARANCE OF STRUCTURES AND SITES UNDER CONSTRUCTION," OF THE VILLAGE CODE OF ORDINANCES**; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. (BUILDING, ZONING, AND PLANNING DIRECTOR JEREMY CALLEROS GAUGER)

[TAB 2](#)

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 BISCAVNE, FLORIDA

TUESDAY, AUGUST 27, 2024

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Chairman at 6:18 p.m. Present were Councilmembers Franklin H. Caplan, Edward London, Brett G. Moss, Oscar Sardiñas, Fernando A. Vazquez, Vice Mayor Allison McCormick, and Chairman Joe I. Rasco. Also present were Village Manager Steven C. Williamson, Village Clerk Jocelyn B. Koch, and Village Attorney Chad Friedman.

2. **APPROVAL OF MINUTES:** Councilmember Caplan made a motion to approve the minutes of the June 11, 2024 Local Planning Agency Meeting. The motion was seconded by Vice Mayor McCormick and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Caplan, London, Moss, Sardiñas, Vazquez, Vice Mayor McCormick, and Chairman Rasco voting Yes.

Chairman Rasco and the Attorney addressed the public stating these items will be discussed later in the evening at the Regular Council Meeting.

3. **PUBLIC COMMENTS:** There were no residents that addressed the Council.

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 BISCAVNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE OF ORDINANCES, BY AMENDING SECTION 30-242, "ARTIFICIAL TURF" OF THE VILLAGE CODE OF ORDINANCES, TO MODIFY INSTALLATION RESTRICTIONS IN THE INSTITUTIONAL ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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, London, Moss, Sardiñas, Vazquez, Vice Mayor McCormick, and Chairman Rasco 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 30-73, "SITE PLAN REVIEW PROCEDURES," TO PERMIT CONVERSION OF HOTEL UNITS TO RESIDENTIAL UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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, London, Moss, Sardiñas, Vazquez, Vice Mayor McCormick, and Chairman Rasco voting Yes.

5. **ADJOURNMENT:** The meeting was adjourned at 6:21 p.m.

Respectfully submitted:

Jocelyn B. Koch
Village Clerk

Approved this _____ day of _____, 2024:

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 BISCAIYNE

MEMORANDUM

Village Council
Joe I. Rasco, Mayor
Michael F. Bracken
Franklin H. Caplan
Edward London
Oscar Sardiñas
Nancy Stoner
Fernando A. Vazquez

Village Manager
Steven C. Williamson

DATE: December 17, 2024
TO: Honorable Mayor and Councilmembers
THRU: Steven C. Williamson, Village Manager
FROM: Jeremy Calleros Gauger, Village Building Zoning and Planning Director
RE: Requiring all construction fences to be 72" high.

RECOMMENDATION

I recommend the Village Council approve the removal of the repetitive code Section 30-39 "Appearance of Structures and Sites Under Construction" and instead rely on the more comprehensive existing language in Section 5-4, "Standards for Maintenance and Appearance of Property Upon Which Construction or Demolition is Being Performed."

BACKGROUND

Maintaining appearances and safety at construction sites is essential for quality of life in the Village. Currently, the code requires screening construction sites with fences in two different sections of the code, Chapter 30 – "Zoning and Land Development Regulations" and Chapter 5 – "Property Maintenance Standards." Chapter 30 fence regulations were adopted in 2010 and require a 42-inch-tall fence. Chapter 5 regulations were adopted in 2013 and require a 72-inch-tall fence. This amendment proposes eliminating the fence regulation from Chapter 30 and instead relying solely on the Chapter 5 regulations, resulting in a 72-inch tall fence requirement.

Chapter 5-4(c) language is as follows:

"Perimeter fence. All lots on which a new single family or two-family home is to be constructed are required to be secured on all sides with a six-foot chain link fence with windcreens. Such fence shall remain in place until the drywall, windows and doors have been constructed. However, in no instance shall the swimming pool be left unsecured. The perimeter fence may be temporarily opened and/or removed as necessary for construction purposes. The Building, Zoning and Planning Director may waive the requirements provided for in this section if the adjoining property has an existing fence or wall."

The Chapter 5 language is both more specific in requirements, more robust in enforceability, and allows additional flexibility to omit the requirement when existing screening allows.

I recommend that Village Council adopt a subsequent code amendment to Section 5-4 so that the fencing requirement applies to all properties under construction rather than being specific to single family and two-family homes. Village staff will create an ordinance and bring this to the council as soon as possible.



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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	The Comprehensive Plan includes language regarding quality of life but is generally concerned with future development of private property and maintenance of public infrastructure. The Comprehensive Plan does not directly call for standards governing maintenance of private property. It is consistent with the Masterplan to preserve quality of life and to remove the regulation of private property maintenance from the zoning ordinance.
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	The proposed changes will not affect the consistency in scale between buildings.
Finding	Not applicable.
Criteria 3	The resulting boundaries of a zoning district are logically drawn.
Analysis	The proposed changes do not alter the zoning districts.
Finding	Not applicable
Criteria 4	The proposed changes will enhance property values in the Village.
Analysis	The proposed changes will minimize harm from construction sites.
Finding	Consistent
Criteria 5	The proposed change will enhance the quality of life in the Village.
Analysis	The proposed change will simplify the
Finding	Consistent



VILLAGE OF KEY BISCAYNE

Criteria 6	There are substantial and compelling reasons why the proposed change is in the best interests of the Village.
Analysis	It is in the best interests of the Village that codes are clear to the residents and to the staff tasked with enforcing regulations. Simplifying regulations by having maintenance and construction in a single location is in the best interest of Village.
Finding	Consistent

CONCLUSION

Based on Findings and relevant background information, staff recommends that Council approve the zoning text amendment.

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, DELETING SECTION 30-39, “APPEARANCE OF STRUCTURES AND SITES UNDER CONSTRUCTION,” OF THE VILLAGE CODE OF ORDINANCES; 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 governing the appearance of property upon which construction or demolition is being performed under Sections 5-4, “Standards for Maintenance and Appearance of Property Upon Which Construction or Demolition is Being Performed,” and 30-39, “Appearance of Structures and Sites Under Construction” of the Village Code of Ordinances (the “Code”); and

WHEREAS, Village Staff recommends deleting Section 30-39 of the Village Code in order to ensure consistency among regulations governing the appearance of property upon which construction or demolition is being performed; 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 desires to delete Section 30-39, “Appearance of Structures and Sites under construction,” of Chapter 30 of the Village Code in order to ensure consistency among regulations governing the appearance of property upon which construction or demolition is being performed; and

WHEREAS, the proposed standards are consistent with the Goals, Policies, and Objectives of the Village of Key Biscayne, Florida Master Plan; 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.

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 2. **Amending Sections 30-39 of the Village Code.** That Section 30-39, “Appearance of Structures and Sites Under Construction,” of the Code of Key Biscayne, Florida, is hereby deleted in its entirety as follows:

CHAPTER 30 – ZONING AND LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE III. - GENERAL PROVISIONS

* * *

Sec. 30-39. - Reserved. ~~Appearance of Structures and sites under construction.~~

~~Sites where construction activity is occurring must be secured by a 42-inch plastic mesh fence or better placed neatly around the entire perimeter of the site. The fence must be made secure at the conclusion of the construction activity each day. The fence must be maintained until all windows and exterior doors have been installed. The site shall be maintained in a neat and orderly appearance. As soon as practical, the exterior of Buildings shall have the final finishes applied and windows installed.~~

* * *

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 _____, 2024.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2024.

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