



# VILLAGE OF KEY BISCAYNE

Office of the Village Clerk

## *Village Council*

Robert L. Vernon, *Mayor*  
Jorge E. Mendia, *Vice Mayor*  
Michael Davey  
Enrique Garcia  
Steve Liedman  
Thomas Thornton  
Patricia Weinman

## *Village Clerk*

Conchita H. Alvarez, *CMC*

## MEMORANDUM

Date: January 15, 2008

To: Honorable Mayor and Members of the Village Council

From: Conchita H. Alvarez, Village Clerk  
David M. Wolpin, Village Attorney

RE: Proposed Village Code Amendment Revising Date of Mayoral Primary Election and Revising Mayoral and Council Candidate Qualifying Periods

## RECOMMENDATION

It is recommended that the Village Council consider the adoption of the enclosed ordinance which revises the date of Village Mayoral Primary Elections from October of even-numbered years to the date of the countywide State Primary Election. This would revise the October 7, 2008 Mayoral Primary election, if one is needed, from October 7, 2008 to August 26, 2008, to coincide with the countywide State Primary Election, and would establish the State Primary Election date as the date for the Village's Mayoral Primary Election in subsequent even-numbered years. Revision of the qualifying periods for Mayoral and Council candidates is also presented for consideration as part of this proposed ordinance, as described below.

## BACKGROUND

The County Supervisor of Elections (the "County") by letter of October 18, 2007, a copy of which is attached, has requested that the Council consider revising the date of the Mayoral Primary Election from early October to August 26, 2008 to coincide with the countywide State Primary Election. Pursuant to Sec. 100.061, F.S., the State Primary Election is held on the Tuesday which is ten (10) weeks prior to the General Election in even-numbered years. As explained in the County's letter, this request for change of the Mayoral Primary Election date was caused by revised State laws which now require the County to prepare and mail absentee

ballots to overseas voters well in advance of the November General Elections. Pursuant to Village Charter Sec. 5.01(c) and Sec. 100.3605(2), F.S., the Council has the authority to alter the Mayoral Primary Election date, which is provided for in the Village Charter, via ordinance. The Village Attorney has drafted this ordinance for Council consideration.

It should be noted that use of the countywide State Primary Election date for the Village Mayoral Primary Election may result in election administration cost savings for the Village.

In light of the proposed revision of the Mayoral Primary Election date to an earlier date, this ordinance also provides for the Council to revise the qualifying periods for Mayoral candidates and for Council candidates to two separate time periods. Presently, pursuant to Village Code Section 2-101, the qualifying period for both Mayoral and Council candidates starts on the 55th day prior to the Mayoral Primary Election and ends on the 45th day before the Mayoral Primary Election. Under the proposed ordinance the qualifying periods would be as follows:

- (1) the Mayoral candidate qualifying period would start **55** days before the revised Mayoral Primary Election date and would end **45** days before that Mayoral Primary Election date;
- (2) the Council candidate qualifying period would start **85** days before the regular Council election held at the General Election on the first Tuesday after the first Monday in November of even-numbered years and would end **75** days before the General Election.

The above described proposed candidate qualifying periods would provide sufficient time for the County to prepare, print and mail the absentee ballots to overseas electors for the General Election.

Alternatively, the single qualifying period for both the Mayoral and Council candidates may be maintained as presently provided by Village Code Section 2-101. However, that would result in a very early qualifying period for Council candidates pursuant to the proposed advanced Mayoral Primary Election date.

The regular election date for Mayoral and Council offices is not altered by this ordinance.

cc: Genaro "Chip" Inglesias, Village Manager  
Stephen H. Helfman, Village Attorney

**ORDINANCE NO. 2008-**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CONCERNING REVISION OF THE DATE OF VILLAGE MAYORAL PRIMARY ELECTIONS AND REVISION OF THE QUALIFYING PERIODS FOR MAYORAL CANDIDATES AND FOR COUNCIL CANDIDATES COMMENCING WITH THE 2008 ELECTION CYCLE; REVISING 2008 MAYORAL PRIMARY ELECTION DATE FROM OCTOBER 7, 2008 TO AUGUST 26, 2008, SO AS TO COINCIDE WITH THE COUNTYWIDE STATE PRIMARY ELECTION; REVISING DATE OF SUBSEQUENT MAYORAL PRIMARY ELECTIONS TO COINCIDE WITH THE STATE PRIMARY ELECTION; CREATING VILLAGE CODE SECTION 2-104 "MAYORAL PRIMARY ELECTION DATE REVISED", AND AMENDING VILLAGE CODE SECTION 2-101 "QUALIFYING PERIOD" TO REVISE THE QUALIFYING PERIODS FOR MAYORAL CANDIDATES AND FOR COUNCIL CANDIDATES AS A RESULT OF THE REVISED MAYORAL PRIMARY ELECTION DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Miami-Dade County Supervisor of Elections Office (the "County"), by letter of October 18, 2007, has requested that the Village Council consider revising the date of the Village's Mayoral Primary Elections from October of each even-numbered year to the date of the countywide State Primary Election of each even-numbered year, in order to enable the County to comply with revised State laws mandating the very early mailing of absentee ballots to overseas voters for General Elections; and

**WHEREAS**, the Village Council, is authorized by Village Charter Section 5.01(c) and by Section 100.3605(2), Florida Statutes, to change the dates of Village elections by ordinance, and desires to revise the date of the Village's Mayoral Primary Elections, so as to comply with the request of the County.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL  
OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

**Section 2. Village Code Amended.**

A. That the Village Code is hereby amended by amending Chapter 2 “Administration”, at Article V. “Elections”, to create Section 2-104 “Mayoral primary election date revised”, to read as follows:

**Section 2-104. Mayoral primary election date revised.**

(a) The date for the Village Mayoral primary election for 2008 is hereby revised from Tuesday, October 7, 2008, to Tuesday, August 26, 2008, upon which revised election date the Village’s Mayoral primary election, if one is necessary, shall be held in conjunction with the countywide State Primary Election which is provided for by Sec. 100.061, Florida Statutes.

(b) The date for the Village’s Mayoral primary elections subsequent to the 2008 election cycle, in each even-numbered year thereafter, shall be held on the date of the countywide State Primary Election as provided for by Section 100.061, Florida Statutes.

(c) An editorial note shall be placed in the published Village Charter immediately following the provisions of Charter Section 5.01, so as to advise of the provisions of this Section 2-104 which govern the date of the Mayoral primary election.

(d) The Village Clerk shall take any action required by the Village Charter, Village Code and applicable law concerning the Mayoral primary election, in a manner which conforms with the revised Mayoral primary election date.

B. That the Village Code is hereby amended by amending Chapter 2 “Administration”, at Article V “Elections”, by amending Section 2-101 “Qualifying period”, to read as follows:<sup>1</sup>

**Sec. 2-101. Qualifying period.**

Candidates for the office of Mayor ~~or Village Council~~ shall qualify with the Village Clerk no earlier than Noon on the 55th day and no later than Noon on the 45th day prior to the date of the Mayoral primary election ~~for~~, and candidates for the office of Village Council shall qualify with the Village Clerk no earlier than Noon on the 85th day and no later than Noon on the 75th day prior to the date of the regular Council elections ~~cycle~~ of the Village, in the method provided for in the Village Charter or Code, and under the rules of elections prescribed in the Florida Statutes. In those situations in which a special election is called for the purpose of filling a vacancy which occurs on the Council or in the office of Mayor during an unexpired term of office, the Council shall by resolution establish the qualifying period during which candidates for the vacant office may qualify with the Village Clerk in the method provided for in the Village Charter or Code, and under the rules of elections prescribed in the Florida Statutes.

**Section 4. Severability.** That 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.

---

<sup>1</sup> Proposed additions to existing Village Code text are indicated by underlining; proposed deletions from existing Village Code text are indicated by strikethrough.

**Section 5. Inclusion in the Code.** 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 Code of the Village of Key Biscayne; 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 6. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 15th day of January, 2008.

PASSED AND ADOPTED on second reading this 12th day of February, 2008

---

MAYOR ROBERT L. VERNON

ATTEST:

---

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

---

VILLAGE ATTORNEY



**Elections**  
 2700 NW 87th Avenue  
 Miami, Florida 33172  
 T 305-499-VOTE F 305-499-8547  
 TTY: 305-499-8480

[miamidade.gov](http://miamidade.gov)

October 18, 2007

Conchita H. Alvarez, CMC  
 Village of Key Biscayne  
 88 W. McIntyre Street, Suite 220  
 Key Biscayne, Florida 33149

Dear Ms. Alvarez:

Effective January 1, 2008, the Elections Department is mandated per statutory requirement to mail absentee ballots to overseas voters forty five (45) days prior to a General Election. Since the General Election is scheduled for November 4, 2008, the deadline to mail absentee ballots to overseas voters is now September 20, 2008. In order for us to meet this statutory deadline, it is imperative that we receive all resolutions, candidate loyalty oaths, and other pertinent documentation needed to prepare the ballot by August 22, 2008.

The date for the Village of Key Biscayne Primary, if needed, is currently scheduled for October 7, 2008. In order for us to begin ballot preparations for the November 4, 2008 General Election, we would have to wait for the results of your October 7<sup>th</sup> Primary Election. In essence, maintaining this date will not provide us sufficient time to prepare, print, and mail absentee ballots to overseas voters by the statutory deadline, and will therefore result in non-compliance with state law. To that end, I respectfully request that your Board consider moving your Primary Election to coincide with the countywide Primary Election on August 26, 2008.

Your prompt reply to this request is greatly appreciated so that we can proceed with our preparations for the 2008 election cycle. Should you have any questions or concerns, please feel free to contact me directly at 305-499-8509 or Rosy Pastrana, Deputy Supervisor of Elections, Operations at 305-499-8548.

Sincerely,

  
 Lester Sola  
 Supervisor of Elections  
 Miami-Dade Elections Department

*Delivering Excellence Every Day*

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections**
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer