



# VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

## MEMORANDUM

*Village Council*

Franklin H. Caplan, *Mayor*

Michael F. Kelly, *Vice Mayor*

Michael W. Davey

Enrique Garcia

Robert Gusman

Mayra P. Lindsay

James S. Taintor

DATE: August 30, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

*AD for chip Iglesias*

*Village Manager*  
Genaro "Chip" Iglesias

RE: Vessel Exclusion Zone/Swim Area Ordinance

### RECOMMENDATION:

Recommend approval of an ordinance creating a vessel exclusion zone/swim area for the area located west of 380 Harbor Drive to 485 W. Matheson Drive as outlined in the attached aerial drawing.

### BACKGROUND:

Attached is the proposed vessel exclusion zone ordinance which has been modified to incorporate the following changes made by the council at first reading:

1. The address has been changed to 380 Harbor Drive.
2. The exclusion zone has been reduced from 300 feet to approximately 125 feet.
3. The language regarding the exception for emergency vessels has been revised.

**ORDINANCE NO. 2011-**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A VESSEL EXCLUSION ZONE/SWIM AREA GENERALLY LOCATED WEST OF 398 HARBOR DRIVE TO 485 W. MATHESON DRIVE AS FURTHER DESCRIBED ON EXHIBIT "A;" PROVIDING FOR GENERAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the "Village"), pursuant to Section 327.46, F.S., has the authority to adopt vessel exclusion zone/swim areas within the Village; and

**WHEREAS**, the operating of vessels close to the shoreline and within swimming areas is a threat to the safety and welfare of the public and swimmers; and

**WHEREAS**, in order to protect the public and swimmers, the Village Council desires to create a vessel exclusion zone/swim area for the area generally located west of 398 Harbor Drive to 485 W. Matheson Drive as further described on Exhibit "A;" and

**WHEREAS**, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

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

**Section 1.** The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2.** **Section 4-32 of the Village Code Amended.** The Village Council hereby amends Section 4-32 "Prohibited Water Activity" as follows:

**Sec. 4-32. - Prohibited water activity.**

- (1) No owner, operator or Person in command of any Vessel shall permit or operate a Vessel within the area of the Atlantic Ocean, 300 feet east of the Beach from the southern boundary of Crandon Park to the northern boundary of Bill Baggs, Cape Florida State Park, except as authorized by the Village Council.
- (2) No owner, operator or Person in command of any Vessel shall permit or operate a Vessel within the area of Biscayne Bay, generally located west of 398 Harbor Drive to 485 W. Matheson Drive as shown on the Nixon Beach Swim Zone Map, except as authorized by the Village Council.

[Add Map]

- (3) Vessels used solely for an emergency/sea rescue or for ensuring compliance with local, state, or federal law are excluded from the provisions of this section.

**Section 3. Severability.** 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. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this \_\_\_ day of \_\_\_\_, 2011.

PASSED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_, 2011.

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MAYOR FRANKLIN H. CAPLAN

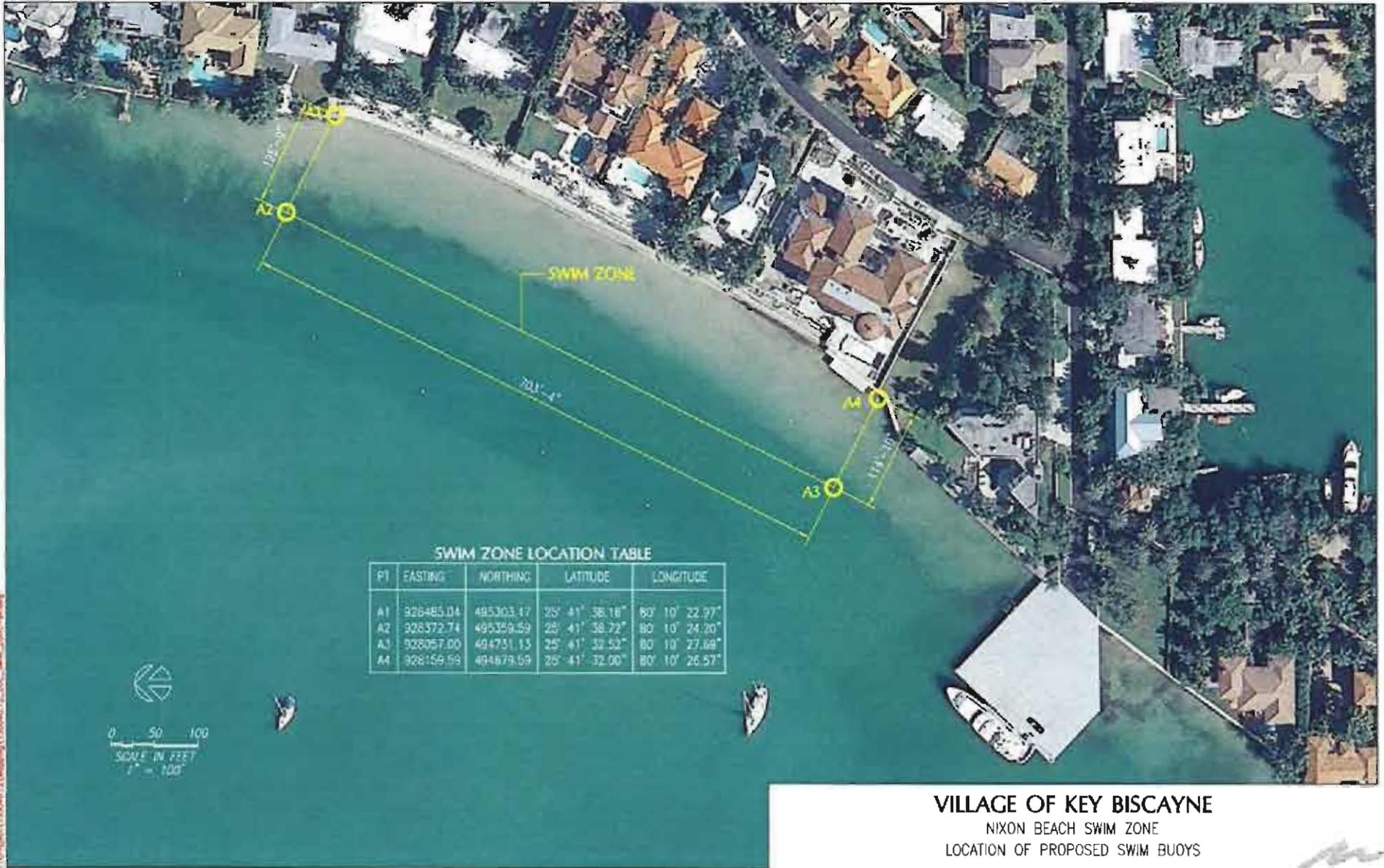
ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY

# Exhibit A



SWIM ZONE LOCATION TABLE

PT	EASTING	NORTHING	LATITUDE	LONGITUDE
A1	928485.04	495303.17	25° 41' 38.18"	80° 10' 22.97"
A2	928572.74	495359.59	25° 41' 38.72"	80° 10' 24.20"
A3	928057.00	494751.15	25° 41' 32.52"	80° 10' 27.69"
A4	928159.59	494679.59	25° 41' 32.00"	80° 10' 26.57"

VILLAGE OF KEY BISCAYNE  
 NIXON BEACH SWIM ZONE  
 LOCATION OF PROPOSED SWIM BUOYS

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