VILLAGE OF KEY BISCAYNE

Village Council
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Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
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James S. Taintor

MEMORANDUM

DATE: October 8, 2013

TO: Honorable Mayor and Members of the Village Council

FROM: James S. Taintor, Councilmember

RE: Proposed DRAFT Ordinance involving Changes to the Village Building & Zoning Code

The enclosed Draft Ordinance makes various changes to Section 30-100 and Section 30-184 of the Village Code of Ordinances and amends the developmental standards for single and 2 family homes within the Village of Key Biscayne. Besides a few minor changes, the major areas are as follows:

1. Setback requirements for Front, Side, and Rear yards.
2. Retaining Wall requirements for rear and side yards.
3. Required parking spaces on each property based on the # of bedrooms.

Please review this Draft Ordinance for any suggested changes or corrections. The Draft Ordinance is on the Agenda for the 10/8/13 Council meeting for discussion and comments.

Thank you. JST

88 West McIntyre Street • Key Biscayne, Florida 33149 • (305) 365-5506 • Fax (305) 365-8914
MISSION STATEMENT: "TO PROVIDE A SAFE, QUALITY COMMUNITY ENVIRONMENT FOR ALL ISLANDERS THROUGH RESPONSIBLE GOVERNMENT."
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ORDINANCE NO. 2013 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100 "SINGLE-FAMILY AND TWO-FAMILY DISTRICTS" AND SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" OF THE VILLAGE CODE OF ORDINANCES, IN ORDER TO AMEND DEVELOPMENT STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY HOMES; PROVIDING FOR EFFECTIVENESS; PROVIDING FOR SEVERABILITY; 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 has considered various proposed amendments to the development requirements for single-family and two-family homes; 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 the adoption of this Ordinance is in the best interest of the residents of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

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

Section 2. Section 30-100 of the Village Code Amended. That Section 30-100 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

[1] Coding: underlined words are additions to existing text, ~~struck-through~~ words are deletions from existing text.

Sec. 30-100. Single Family and Two-Family districts.

* * *

(d) *Maximum Lot elevation and drainage.*

(1) *Generally.* For the purpose of regulating Lot elevations there is hereby established three zones. The "Front Zone" being the area between the Building and any adjacent Street(s) but in no event being less than 15 feet from any Street(s). The "Rear Zone" being the area from the Building to the interior and rear property line(s) (or to the waterfront zone, if applicable) and to the back of the "Front Zone." The "Waterfront Zone" being the entire area within 25 feet from any body of water.

a. *"Front Zone."* When a Lot is filled for Development purposes the area delineated as the front zone may not be filled to an elevation greater than two feet above the average crown of road. However, the driveway grade shall not exceed ten percent above the crown of the road.

b. *"Rear Zone."* When a Lot is filled for Development purposes the area delineated as the "Rear Zone" may not be filled to an elevation greater than 2½ feet below the established B.F.E.

c. *"Waterfront Zone."* When a Lot is filled for Development purposes the area delineated as the "Waterfront Zone" may not be filled to an elevation greater than six inches above the bulkhead; however in no instance shall the height of a bulkhead or Lot be raised to a height that exceeds the maximum elevation as established in the "Rear Zone".

[d.]Reserved.

e. "Pools, pool Decks, Terraces." Pools, pool Decks and Terraces which are located in compliance with the required Setbacks for all Structures and are above the height restrictions established in subsection (2) are included in the Lot Coverage calculation. Pools, pool Decks and Terraces that are located in compliance with the required Setbacks and height restrictions are not included in the Lot Coverage calculation.

~~f. Pools, pool Decks and Terraces which do not exceed height limitations as provided in subsection (2) and the required Setbacks for all Structures are not included in the Lot Coverage calculation.~~

[2] Reserved.

(3) *Grading and Drainage.* Within any zone immediately adjacent to the property line, a drainage swale shall be provided to capture the first inch of runoff. The slope to the swale shall not exceed 14 percent. ~~If the grading necessary to provide this swale results in a grade above or below the~~

~~adjacent property grades, a retaining structure shall be provided as determined by the Building Official.~~

(e) *Setback Regulations (minimum).*

Yard	VR Village Residential	VE Village Estate	IR Island Residential	PS Parkside Residential
Front	20 ft. *	25 ft.	25 ft.	20 ft. *
Rear	25 ft. *	25 ft. **	25 ft.	25 ft. *
Side, interior	One Story new construction or one story addition: 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width, with no Side Yard less than 7.5 feet. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor. **** – New construction: Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet.	New construction: 7.5 minimum setback and sum of sideyards shall be 30% of lot with but no sideyard shall be required to exceed 30 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback.	New construction: 7.5 minimum setback and sum of sideyards shall not be less than 30% of the width of the Lot; but, no sideyard shall be required to exceed 30 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback.	One Story new construction or one story addition: 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width, with no Side Yard less than 7.5 feet. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor. **** – New construction: Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet.

	New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.			New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.
Side facing a Street	15 ft.	Same as interior side setback	Same as interior Side setback	15 ft.

* Allowable 15-foot Front ~~and Rear~~ Yard Setback subject to the requirements of the table below. ~~The 15-foot rear Setback requires the installation of a dense landscape screen with a height of at least ten feet at time of planting.~~

Number of Stories	Height of Building Wall	Building Wall Length
1	15 ft. ***	40% of the width of the Lot
2 or more	22.5 ft.	34% of the width of the Lot
Garages	Shall provide a 20 ft. Setback if the entrance faces a Street; The elevation facing the Street shall appear as an integral residential part of the Structure including windows and finishes.	

** Within the Village Estate District the following properties shall provide a rear Setback of 50 feet: 200—290 Harbor Drive.

*** However, nothing herein shall prevent vaulted or clearstory Walls with a maximum height of 22.5 feet.

~~**** For a tri-level home, the portion of the floor area associated with the half-level shall not count as part of the second story floor area.~~

(f) *Permitted encroachments in Required Yards.*

(1) *Balcony Regulations.*

a. Railings or Walls shall be at least 50 percent open.

b. When facing a street, the minimum projection (depth) shall be four feet and minimum length eight feet.

(2) *Boat storage.*

a. The term "boat" as used herein includes vessels and other watercraft, as defined in F.S. § 327.02(36).

b. Boats less than 26 feet in length, not more than 8 feet~~96 inches~~ in width and 13 feet six inches in height (bottom of hull to the highest point on the boat including Towers and T tops), may be stored in the VR, VE, IR, and PS zoning districts subject to all the following conditions:

1. No more than one boat may be stored on any one Lot unless stored in an enclosed garage; and
2. Boats and place of boat storage shall be kept in a clean, neat and presentable condition; and
3. No major repairs or overhaul Work on or for a boat shall be made or performed on the Lot; and
4. The boats shall not be used for living quarters, and shall be placed on and secured to a transporting Trailer, however, nothing herein shall authorize the Parking of a Trailer on any Lot without a boat. Personalized watercraft (jet ski, waverunner or similar watercraft) as defined in F.S. § 327.39 are required to be placed on a Trailer pursuant to this section (canoes as defined in F.S. § 327.02(3) are not required to be placed on a Trailer); and
5. Boats stored in a Yard that faces a Street shall comply with the following: The Trailer wheels shall be placed on a hard paved surface and the boat shall be perpendicular to the house.

(3) *Decks, pools, and screen enclosures.*

a. Decks shall provide a minimum five-foot Setback to any Lot line; Zero feet Rear Yard Setback for waterfront properties.

b. Decks and swimming pools shall not exceed a height greater than that allowed for the Maximum Lot Elevation. If located outside of the required yard area, the height shall not exceed finished floor elevation.

c. Pools. Swimming pools shall be subject to the following Setback limitations and shall not exceed a height greater than that allowed for the Maximum Lot Elevation (see subsection (27) for swimming pool equipment setbacks):

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	6.5 ft.	10 ft.	25 ft.	25 ft.	6.5 ft.
Rear	6.5 ft.	6.5 ft. *	6.5 ft.	4~~6.5~~ ft. ~~*~~	6.5 ft.
Side, interior	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.
Side, Street	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	15 ft.	15 ft.	~~6.5~~ 7.5 ft.

* Waterfront Lots shall provide a four-foot Setback.
The foregoing Setbacks shall be measured from the water's edge.

d. Screen enclosures. Where a screen enclosure is used to enclose a pool or other area of a residence, it shall be limited in height to 22.5 feet and subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches
Rear	5 ft.	25 ft.	5 ft.	25 ft.	5 ft.
Side, interior	~~5~~ 7.5 ft.	~~5~~ 7.5 ft.	7.5 ft.	15 ft.	~~5~~ 7.5 ft.
Side, Street	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

* * *

(5) *Driveway and Parking criteria.* The following provisions shall apply to all single Family and Two-Family Developments:

* * *

c. *Setbacks.* All driveways shall be set back at least five feet from any side property line. All circular driveways shall be set back at least two feet from any front and/or property side Street property line. On Corner Lots, driveways shall be set back 15 feet from the extended Right-of-Way Intersection.

d. *Width.* A maximum width of 24 feet is permitted for single Family and 36 feet for Two-Family Homes for a Lot with 75 feet or less of frontage at the property line. For all other Lots the width of a driveway or combination of driveways at the point of intersection with the Right-of-Way shall not exceed the lesser of 36 feet or 32 percent of the Lot's frontage, including side Street frontage on Corner Lots.

No Commercial Vehicle shall be parked or stored overnight except in a garage or Carport; ~~however one vehicle that is used for commercial~~

~~purposes may be placed on the property~~. A Sign measuring no more than three square feet may be placed on either side of such vehicle.

* * *

(9) *Gazebos and accessory Structures.*

a. Maximum height: Ten feet Wall height above the Maximum Lot Elevation.

b. Location: Not permitted in the Front Yard.

c. Setbacks, Side Yard: Same as the Main Permitted Use. However, the required Rear Yard Setback is ten feet.

d. Size: 200 square feet.

e. Construction materials: Limited to concrete, block, stucco, wood, and brick or similar materials. Aluminum, sheet metal, fiberglass are prohibited.

f. Roof top Access: Prohibited.

g. Number: One.

h. Waterfront view corridor: No Structure shall be permitted within an isosceles triangle with each side measuring 25 feet at the intersection of the rear and side Lot lines.

(10) *Generator Regulations.*

a. Temporary or portable generators are not permitted on any multi-family, condominium or townhome property.

b. Generators are not permitted in any yard that faces a Street.

c. Maximum decibel level for any generator is 60 db measured at the property line as measured with a calibrated Sound Level Meter.

d. All generators shall be setback a minimum of ~~five~~ 7.5 feet from any property line and must be completely screened on all sides by the use of walls, fences, landscaping, or other material which extends a minimum of six inches above the top of the generator.

* * *

(11) *Heating, ventilation, and air conditioning equipment Setback Regulations.* The use and location of heating, ventilation, and air conditioning compressors and equipment (HVAC) are subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Rear	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.

Side, interior	~~4~~ 7.5 ft.	4 7.5 ft.	4 7.5 ft.	10 ft.	4 7.5 ft.
Side, Street	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted

Additionally, HVAC compressors shall be installed on an acoustically soundproofed base or ledge with a structural visual screen around all open vertical sides of the unit(s). The screen shall extend at least one foot above the top of the compressor and shall be painted the color of the house or duplex.

* * *

(18) *Projections.* The following Structures are permitted to project into a Required Yard for a distance not to exceed 25 percent of said Yard with a maximum projection of six feet: Awnings, balconies, bay windows (maximum width of ten feet), canopies, chimneys, cornices, sills, walkways and other architectural features that the Building, Zoning, and Planning Director has determined are consistent with this subsection.

(19) *Railing Required.* Whenever the Florida Building Code requires a railing, it shall be at least 50 percent open.

(20) *Retaining Wall, required.* A retaining Wall shall be provided ~~where any portion of a Lot that has an elevation of two feet or more above the crown of the road and is adjacent to a non-elevated Building~~ on the sides and rear of all yards of new Single-Family and Two-Family homes. ~~(See Drainage section 30-100[(d)(3)].~~

* * *

(27) *Swimming pool pumps, heaters, and similar equipment.* ~~These uses~~ Swimming pool pumps, heaters, and similar equipment are permitted to encroach into Required Yards subject to the following Setbacks ~~for Side Required Yards measured from the swimming pool water's edge~~:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted **	Not permitted **	Not permitted **	Not permitted **	Not permitted **
Rear	5~~2~~ ft.	5~~2~~ ft. ~~[0 ft.] if waterfront~~	5~~2~~ ft.	5~~2~~ ft. ~~[0 ft.] if waterfront~~	5~~2~~ ft.

Side, interior *	~~2~~ 7.5 ft.	~~2~~ 7.5 ft.	~~2~~ 7.5ft.	~~2~~ 7.5ft.	~~2~~7.5 ft.
Side, Street *	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted

* If the equipment is located in a Side Yard, landscaping shall be planted which obscures views of said equipment. Additionally, where said equipment is located along any Street frontage it must be visually screened from the public Right-of-Way.

** If a pool is permitted pursuant to section 30-100(f)(3), the equipment shall be at least ~~two~~ 7.5 feet from ~~the~~ any side property line, but in no instance shall it be placed in a location that allows it to be seen from the Street.

* * *

(32) If in a Side Yard, trash and garbage enclosures must be located at least 7.5 feet from any side property line.

Section 3. Section 30-184 of the Village Code Amended. That Section 30-184 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

Sec. 30-184. Amount of required off-street Parking.

(a) The required off-street Parking spaces shall be provided and maintained on the basis of the minimum requirements listed in this article.

Use	Required Number of Spaces	Special Conditions Additional Required Spaces
(1) Apartment Building	1.75 per Unit	Developments with more than 10 Units, then 1 additional per 5 Units, marked as guest Parking.
(2) Cabana Clubs	0.5 per cabana	
(3) Churches and other places of worship	See special conditions	1 per 60 sq. ft. of Floor Area available for seating and per 4 fixed seats. Parking only required for main sanctuary or largest meeting room whichever is greater.
(4) Community Residential Facility	1 space per live in employee plus spaces listed in special conditions	1 space for every 5 residents or any fraction thereof
(5) Duplex	4 1 spaces per 2 bedrooms, with a minimum of 2 spaces per duplex unit.	~~If in a Development with >=5 Units, then 1 additional per 5 Units, marked guest Parking~~

		* * *
(21) Single Family Residence	~~2~~ 1 spaces per bedroom. Tandem spaces are permitted.	

* * *

Section 4. **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 5. **Conflicts.** 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 be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2013.

PASSED AND ADOPTED on second reading this _____ day of _____ , 2013.

_____
MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

DRAFT