VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
James S. Taintor

Village Manager
Genaro "Chip" Iglesias

DATE: December 6th, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Interim Village Manager

RE: Amendment to the Zoning and Land Development Regulations: Dock Regulations

RECOMMENDATION

It is recommended that the attached ordinance be approved on second reading.

BACKGROUND

On the November 22nd, 2011, the Village Council held first reading on an ordinance that was based on the recommendations from the Dock Advisory Board. The attached ordinance was approved on first reading with the following highlighted changes:

1. Properties at 1, 2, 5, 7, 9, 11, and 15 Harbor Point are permitted to have docks that project no more than 100 ft. into Biscayne Bay in place of the current 40 ft. limitation. Similar to the other Bayfront lots, the 60 degree triangle has been removed from the aforementioned properties;

2. The current regulations which permit docks at the Nixon Beach properties (400 Harbor Drive through and including 500 Bay Lane) will be retained;

3. The regulations regarding perpendicular docks were clarified; and,

4. The word "setback" was added to the General Requirements regarding docks, davits, fender pilings, watercraft, and mooring piles.

ORDINANCE NO. 2011 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100(F)(4) OF THE VILLAGE CODE OF ORDINANCES RELATING TO DOCKS AND MOORING PILES WITHIN THE SINGLE FAMILY DISTRICTS; PROHIBITING DOCKS ON CERTAIN PROPERTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") currently regulates docks within the Village; and

WHEREAS, on February 8, 2011, the Village Council adopted Ordinance 2011-1 creating the Dock Advisory Board in order to study and evaluate the existing dock and mooring pile regulations within the Village, and to provide recommended changes to such regulations to the Village Council; and

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

WHEREAS, after review and consideration of the Dock Advisory Board's recommendations, the Village Council desires to amend the Village Code of Ordinances as provided for within this Ordinance; 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 BISCAYNE, FLORIDA, AS FOLLOWS[1]:

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

[1] Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

Section 2. Section 30-100(f)(4) of the Village Code Amended. The Village Council hereby amends the Village Code as follows:

Sec 30-100. Single Family and Two Family district

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(f) Permitted encroachments in Required Yards.

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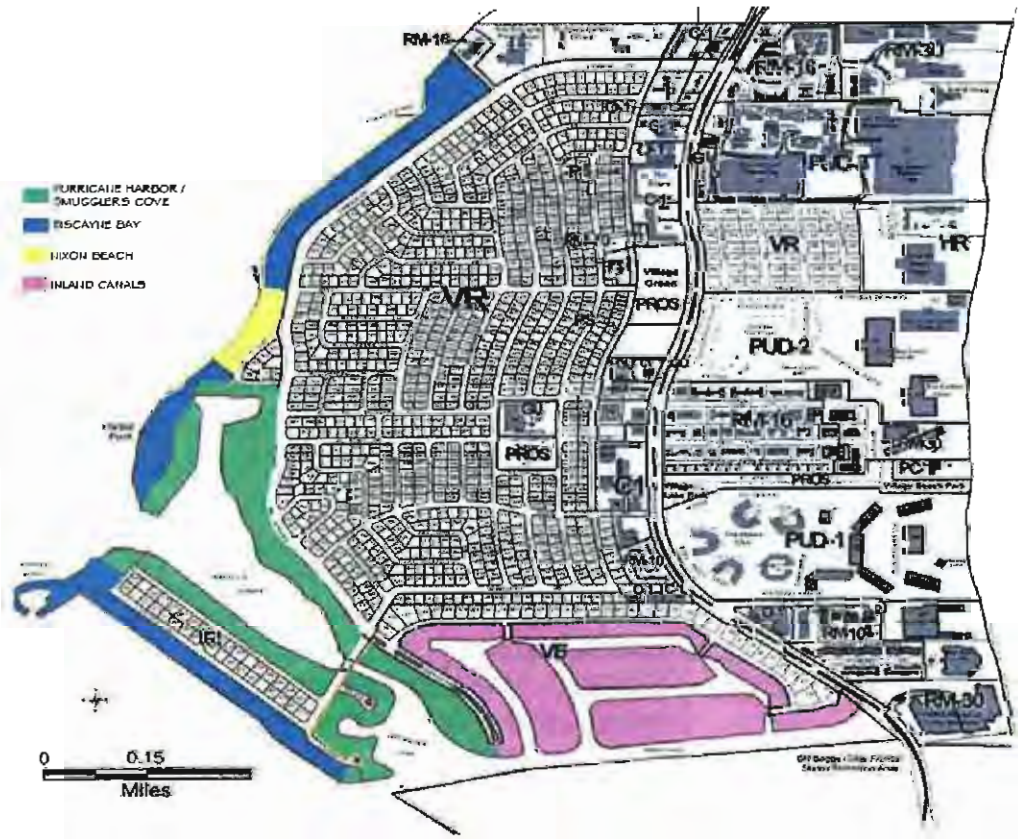
(4) Docks and mooring piles.

These regulations shall apply to all properties within the single family districts, unless addressed in the specific regulations. For purposes of this section, properties shall be identified as provided for in the Village Waterfront Property Map.

VILLAGE OF KEY BISCAYNE
WATERFRONT PROPERTY MAP



(a) General Requirements

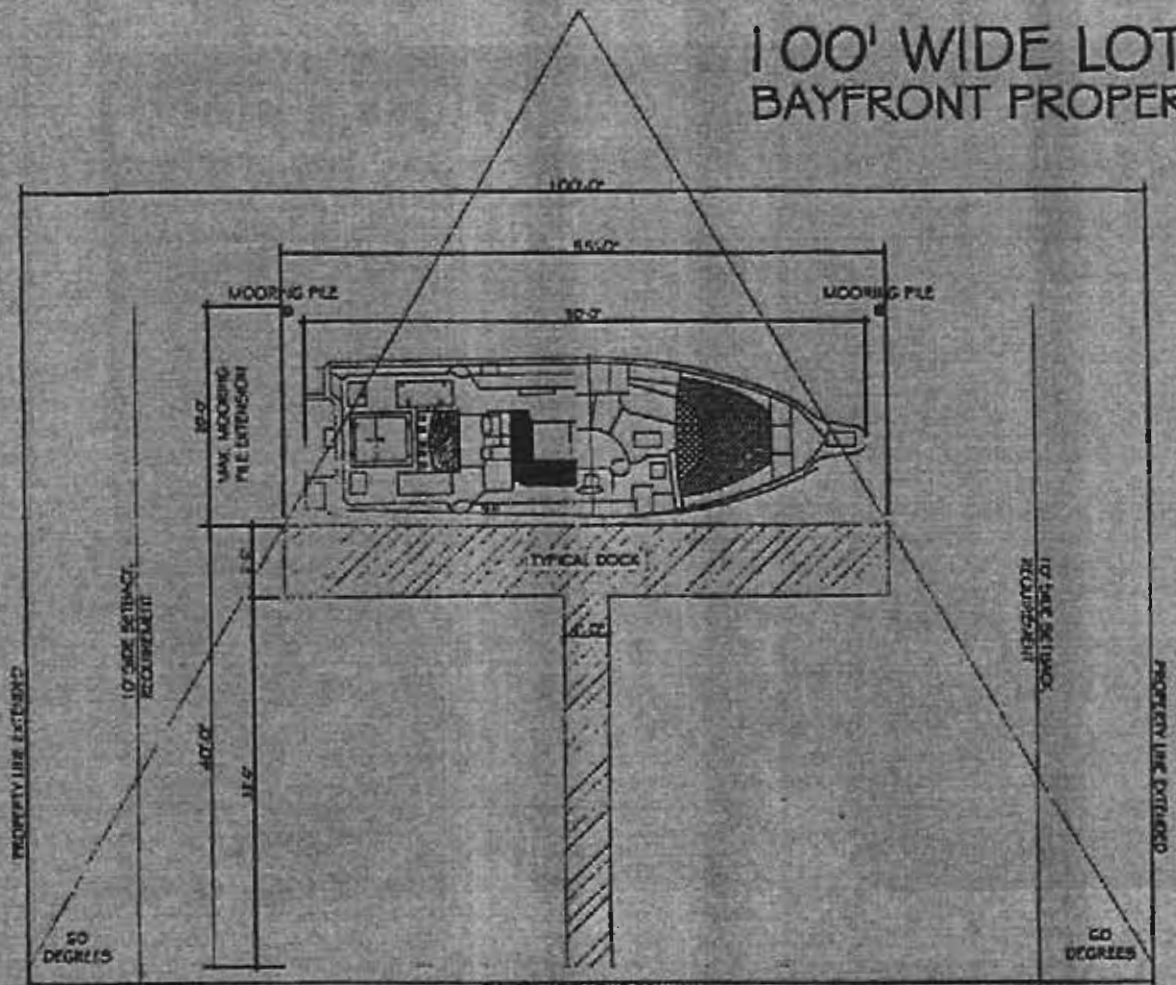
Regulations	**Requirements**
Building Permit Required	No docking facility shall be constructed without prior written approval by the Building, Zoning and Planning Department. The Village may deny a permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.
Setbacks for ~~D~~docks, davits, fender pilings, watercraft and mooring piles	Minimum setback shall be the side setback in the applicable zoning district extended into the water. No portion of a watercraft, including, but not limited to, the bow pulpit, engines, & dive platforms shall encroach into the required setback.
Mooring pile height.	Maximum height of a mooring pile shall be 13 ft. above NGVD (National Geodetic Vertical Datum).
Tender	For purposes of this section, a tender shall be considered a watercraft if it is in the water.
Boat lift & lift arm	A boat lift or boat arm shall not encroach into the minimum required setback extended into the water. The bottom of a watercraft on a boatlift shall be no more than six inches above the mean high water mark.
Legal nonconforming docks and mooring piles	The re-decking, replacement or repair of a legal nonconforming dock or mooring pile is permitted if it is within the same footprint as the original dock or mooring piles. A legal nonconforming dock or mooring pile that is destroyed or damaged by a natural disaster may be rebuilt within the same footprint as the original dock and mooring pile if a building permit is obtained within two years of the date of said destruction.
Maximum Number of slips and guest watercraft	There shall be no more than two boat slips per property. One guest boat is allowed if moored no more than 24 hours.
Measurement from mangroves	Whenever mangroves are situated on a property, any required measurements shall be from the water's edge of said mangroves.
Fender Piles	Where the width of a waterway does not permit a dock or mooring pile, fender piles may be placed at a distance not to exceed 18 inches from the bulkhead.

(b) Specific Regulations

Regulations	**Canal**	**Hurricane Harbor & Smuggler's Cove**	**Bayfront Properties**
Dock projection & parallel length	A dock shall be permitted to project a maximum of 10 ft. or 10% of the Waterway width, whichever is less.	A dock shall be permitted to project a maximum of 20 ft. or 20% of the Waterway width, whichever is less.	A dock shall be permitted to project a maximum of 40 ft. from the property line. Notwithstanding the foregoing, a dock shall be permitted to project a maximum of 100 ft. from the property line for properties located at 1,3,5,7,9, 11, & 15 Harbor Point, and 40 ft. from the property line for properties located within the Nixon Beach (400 Harbor Dr. through and including 500 Bay Lane). If there is a concave or convex property line, projection of one side of the dock may exceed the maximum permitted length of the dock by ~~40 ft., but~~ no more than six ft. The maximum length of a dock parallel to a bulkhead shall be 55 ft.
Mooring pile projection and distance requirements	The maximum mooring pile projection shall be 25 ft. from the bulkhead or 20% of the Waterway width, whichever is less.	The maximum mooring pile projection shall be 35 ft. from the bulkhead or 20% of the Waterway width, whichever is less.	The maximum mooring pile projection shall be 20 ft. from a dock ~~and 60 ft. from the property line~~. Maximum distance between mooring piles shall be 55 ft.
Triangle	N/A	N/A	A 60 degree triangle shall be required, except for those properties located at 1, 3,5,7,9,11,&15 Harbor Point. Baseline of the triangle is required to be greater than or equal to 100 ft. The dock or boat lift shall be located within the triangle. Mooring piles, boat lift arms, and watercraft are permitted outside of the triangle. (See, illustration below).
Max. length of watercraft	N/A	N/A	50 ft.
Site specific regulations	N/A	N/A	See below, the Site Specific Regulations Map for the following properties: 400 S. Mashta Dr., 420 S. Mashta Drive, and 28 Harbor Point Drive. ~~Docks and~~

			~~moorings are prohibited on the following properties: 400 Harbor Dr. through and including 500 Bay Lane.~~
Perpendicular dock restrictions	N/A	No watercraft shall extend beyond the end of a dock perpendicular to a bulkhead by more than 10% of the length of the perpendicular dock. For purposes of this section, a perpendicular dock is a dock whose length from the bulkhead is at least twice the length of that portion of the dock parallel to a bulkhead. ~~The portion of a dock which is perpendicular to the bulkhead shall exceed the portion of a dock which is parallel to a bulkhead by 50% or more.~~ ~~No mooring pile or watercraft shall extend beyond the end of the dock more than 10% the length of the dock~~	N/A

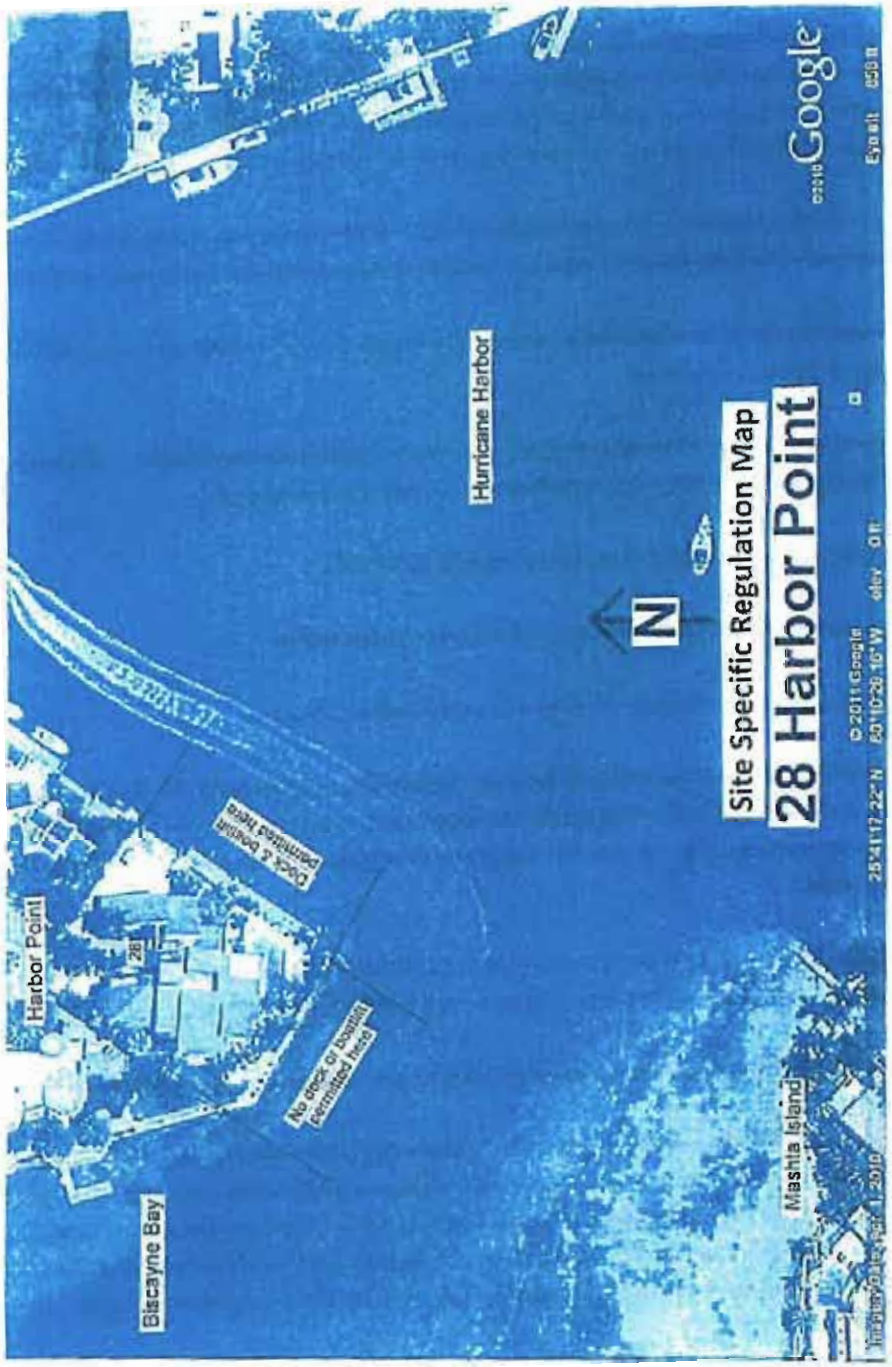
100' WIDE LOT
BAYFRONT PROPERTIES



60 Degree Triangle, 40' Dock & 50' Boat

DRAWING SOURCE: VKB B&P DEPARTMENT
WEF, 12/31/08

Mashta Island
S Mashta Dr
Smugglers Cove
400
420
Dock & boatlift permitted here
Biscayne Bay
Dock & boatlift permitted here
No dock or boatlift permitted here
Pines Canal
Site Specific Regulation Map
400 & 420
South Mashta Drive
N
Bill Baggs State Park
©2011 Europa Technologies
©2011 Google
Google


Harbor Point
28
Biscayne Bay
Dock & boatlift permitted here
No dock or boatlift permitted here
Hurricane Harbor
N
Site Specific Regulation Map
28 Harbor Point
Mashta Island
Google

~~a. *General Regulations.* No docking facility within the single family districts in the Village of Key Biscayne shall be constructed without prior written approval by the Village of Key Biscayne Building, Zoning and Planning Department. The Village reserves the right to deny such permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.~~

~~1. All docks, davits, fenders, watercraft and mooring piles shall be set back a minimum of ten feet from each side property line extended into any bodies of water.~~

~~2. No mooring pile shall have a height exceeding 13 feet above NGVD (National Geodetic Vertical Datum).~~

~~3. No more than two slips shall be permitted per residence. Slip(s) which are occupied by a guest may be moored no longer than 24 hours.~~

~~4. A tender shall not be considered as a watercraft.~~

~~5. No dock shall project within 50 feet of a breakwater~~

~~6. No dock shall be within 25 feet of a marked channel.~~

~~7. A boat lift may project from a dock within the applicable 45 or 60 degree triangle but may not encroach the required ten foot side yard setbacks. Lift arms may extend beyond the applicable 45 or 60 degree triangle, but shall not extend beyond the mooring piles.~~

~~8. The maximum height for a watercraft on a boat lift is such that the keel may be no more than five inches above the Mean High Water Level.~~

~~9. Maximum Dock and Mooring Pile Extensions from a Property Line.~~

~~a. *Canal.* No dock shall extend from a property line into any canal a distance greater than ten feet, or ten percent of the width of the waterway, whichever is less. No mooring pile shall extend from a property line into any canal a distance greater than 25 feet or 20 percent of the canal width, whichever is less. The dock, watercraft and any mooring pile shall fit within a 45 degree triangle.~~

~~**[triangle]**~~

~~b. *Hurricane Harbor and Smuggler's Cove.* No dock shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 20 feet or ten percent of the waterway, whichever is less. No mooring pile shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 35 feet or 20 percent of the channel width, whichever is less. The dock, watercraft and any mooring piles shall fit within a 45 degree triangle.~~

~~c. *Biscayne Bay.* No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock and watercraft shall fit within a triangle with 60 degree angles along the base of the triangle. The baseline of the triangle shall not exceed 100 feet. No mooring pile shall extend more than 20 feet from a dock and may not extend more than 60 feet from the property line into Biscayne Bay. Mooring piles are permitted outside of the 60 degree triangle.~~

~~**10.** Where the width of a waterway does not permit the placement of a dock or outer mooring pile, fender mooring piles may be placed at a distance not to exceed 18 inches from the bulkhead.~~

~~**b.** *Specific Regulations.* The following provisions shall apply only to those properties located along Biscayne Bay at 200 through and including 398 Harbor Drive:~~

~~**[triangle]**~~

~~**1.** No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock shall fit within a triangle with 60 degree angles along the base of the triangle as depicted below. The baseline of the triangle shall not exceed 100 feet.~~

~~**2.** No mooring pile shall extend more than 20 feet from a dock and may not extend more than 60 feet from the property line into Biscayne Bay. No more than two mooring piles and one watercraft are permitted outside of the 60 degree triangle.~~

~~**3.** If the property line is a concave or convex arc, the projection of one side of the dock may exceed the 40 foot maximum by no more than six feet.~~

~~**4.** No more than one slip shall be permitted per residence. A watercraft owned by a guest may be moored no longer than 24 hours within a slip.~~

~~**5.** No dock or mooring pile shall project within 60 feet of a breakwater.~~

~~**6.** A boat lift shall not encroach into the required ten foot side yard setbacks. Lift arms may extend beyond the 60 degree triangle, but shall not extend beyond the mooring piles.~~

~~**7.** The maximum height for a watercraft on a boat lift is such that the bottom of the watercraft may be no more than six inches above the Mean High Water Level.~~

~~**8.** A watercraft shall not exceed a maximum of 50 feet in length overall (LOA).~~

~~9. The maximum distance between mooring piles shall be 50 feet, and the maximum length of a dock running parallel to the property shall not exceed 50 feet.~~

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 on first reading this 5th day of July, 2011.

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

_____
MAYOR FRANKLIN CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY