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# VILLAGE OF KEY BISCAINE

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Office of the Village Manager

*Village Council*

Robert L. Vernon, *Mayor*  
Michael Davey, *Vice Mayor*  
Enrique Garcia  
Robert Gusman  
Michael E. Kelly  
Jorge E. Mendia  
Thomas Thornton

April 21, 2009

MEMORANDUM

*Village Manager*

Genaro "Chip" Iglesias

TO: Honorable Mayor and Members of the Village Council  
FROM: Genaro "Chip" Iglesias, Village Manager *am for BL*  
RE: Draft Dumpster Ordinance

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## RECOMMENDATION

It is recommended that the Council review the draft ordinance and consider the below recommendations from representatives of the shopping centers and the Chamber of Commerce. After reviewing the item with the stakeholders, it is recommended that the air conditioning requirement for dumpsters that receive foodstuffs be removed from the ordinance and replaced with a requirement that they be emptied on a daily basis.

## EXPLANATION

At the direction of Council, the Village Attorney prepared the attached ordinance. The ordinance includes a regulation that requires dumpsters which receive foodstuffs to be air-conditioned. This was included as a solution to odor and vermin problems. However, the cost of bringing electricity to the site, including trenching through the parking lot for conduit, results in an expensive remedy. Alternatively, the stakeholders recommended that the ordinance include a provision that dumpsters which receive foodstuffs must be emptied on a daily basis. This will also solve the problems associated with odors and vermin. As such, it is recommended that the air-conditioning requirement be removed and replaced with a regulation that requires a daily pick-up of dumpsters that receive foodstuffs.

On April 13, 2009, the Building, Zoning, and Planning Director met with several representatives from the shopping centers and members of the Chamber of Commerce. During the course of the meeting, these individuals recommended the following:

1. Remove the air conditioning requirement for dumpsters.
2. Work with the BZP Director on solutions to each dumpster site due to the variety of problems. The ordinance cannot address the uniqueness of each site and voluntary compliance is the better approach prior to the imposition of regulations.
3. If an ordinance is required, a requirement of a daily pick-up for dumpsters that receive foodstuffs is reasonable.
4. As to the dumpster enclosure, CBS is not practical due to cost. Green or black coated chain link fence with metal slates and landscaping is the preferred approach. This was used at the NE corner of The Square.

There are several variables to the solution: the shopping center manager, the tenant, the tenant's employee who actually takes the garbage out, the waste hauling company and their policies relating to repairing dumpsters and damage to private property, and the driver. It gets more complicated as two shopping centers are condominiums, the Key Biscayne Shopping Center (Winn Dixie) and The Square. Furthermore, condominium regulations govern who can utilize each dumpster. Any increases in the number of pick-ups impact the condominium maintenance fees and shopping centers that are owned by one corporation. It is much easier to raise maintenance fees in shopping centers which are owned by one corporation rather than those which are owned through a condominium.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 6, "BUILDING AND BUILDING REGULATIONS," OF THE VILLAGE CODE BY ADDING SECTION 6-4, "NON-RESIDENTIAL TRASH CONTAINERS" PROVIDING FOR NON-CONFORMITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council desires to amend Chapter 6, Building and Building Regulations by adding Section 6-4, "Non-Residential Trash Containers" so as to prevent spillage and unsanitary conditions and maintain unsightly garbage from public view.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS<sup>1</sup>:

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Village Code Amended.** That the Village Code of the Village of Key Biscayne, Florida is hereby amended by amending Chapter 6, Building and Building Regulations by adding Section 6-4, "Non-Residential Trash Containers" to read as follows:

**Section 6-4. Non-Residential Trash Containers**

1. All non-residential trash, garbage and debris shall be placed and stored within fully enclosed and covered commercial containers. These containers shall be located within the property at a location consistent with the requirements of the Village's Land Development Regulations and shall be completely screened from view from outside the property by a concrete wall enclosure on three sides and a gate made of chain link with metal inserts. The entire enclosure shall be at least as high as the container and designed to meet with the approval of the Village Director of the Department of Planning, Building and Zoning.

2. The disposal of foodstuffs from any source, including but not limited to restaurants or grocery stores, shall be into containers located within temperature

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<sup>1</sup> Additions to existing Village Code text are shown by underline.

controlled buildings or rooms with air conditioning systems operated 24 hours per day.

**Section 3. Non-Conformity.** The provisions of this Ordinance shall be fully applicable and enforceable six (6) months from the effective date if this Ordinance.

**Section 4. 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 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** on first reading this \_\_\_\_\_ day of December, 2008.

**PASSED AND ADOPTED** on second reading this \_\_\_\_\_ day of December, 2008.

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MAYOR ROBERT L. VERNON

ATTEST:

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CONCHITA ALVAREZ, CMC VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY