VILLAGE OF KEY BISCAYNE

Office of the Village Manager

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

Village Manager
John C. Gilbert

DATE: January 28, 2014

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Amendment to the Zoning and Land Development Regulations: Manufactured Homes and Recreational Vehicles

RECOMMENDATION

It is recommended that Village Council approve the attached Ordinance which is consistent with the Village's Flood Ordinance 2012-06 that was adopted on May 8, 2012. Adoption of the attached Ordinance is a requirement of the Federal Emergency Management Agency (FEMA) Community Rating System (CRS) to maintain our compliant status and thus continue to provide savings to our property owners on their flood insurance premiums. The proposed Ordinance prohibits manufactured homes in the Village and requires that recreational vehicles shall not be permitted to remain on a property for more than 180 days in a single calendar year.

BACKGROUND

The National Flood Insurance Program (NFIP) offers flood insurance at more affordable rates, based on criteria they use to evaluate the quality of a community's flood damage mitigation code enforcement activities. When the Village voluntarily enrolled in the CRS program, one of the requirements was to adopt the Village's original floodplain management regulations (the "Flood Ordinance") which occurred on January 5, 1993.

As part of the NFIP program, the Village was required to periodically submit the Flood Ordinance to FEMA for review. Upon FEMA's latest review, they suggested changes to bring the Village Flood Ordinance into compliance with their current regulations.

Additionally, the 2010 Florida Building Code now includes a Flood Damage Prevention section which mandates that the Village Flood Ordinance must not conflict with any of the requirements in the Florida Building Code. The Flood Ordinance was adopted on May 8, 2012. Based on FEMA's further review, additional revisions to the Village Code are necessary to finalize compliance. These are presented in the attached Ordinance.

At first reading, Council questioned the definition of "Manufactured Home" and the removal of motor homes and trailers from the Ordinance. Staff discussed the definition of "Manufactured Home" with FEMA. The definition that appears in the Ordinance is the one that FEMA is requiring.

Language relating to motor homes and trailers was removed as these are included in the current definition of "Recreational Vehicles". Under Village code "Recreation Vehicles" include a camping trailer, truck camper, house-bus, camp-bus, motor home and travel trailer. ***All "Recreational Vehicles" are allowed for no more than 180 days on the property (in any one calendar year) only if they are stored in a carport or garage.*** FEMA is requiring this regulation in order to reduce insurance claims and the overall insurance premiums in the Village.

Reviewed by Mr. Chad Friedman from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

ORDINANCE NO. 2014 - ___

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-11 "DEFINITIONS" TO PROVIDE A DEFINITION OF "MANUFACTURED HOME;" CREATING SECTION 30-41 "RECREATIONAL VEHICLES AND MANUFACTURED HOMES" OF THE VILLAGE CODE OF ORDINANCES, TO PROHIBIT MANUFACTURED HOMES WITHIN THE VILLAGE, AND TO PROVIDE FOR REGULATIONS OF RECREATIONAL VEHICLES; DELETING SECTION 30-100(F)(14) "MOTOR HOMES AND TRAILERS;" 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 previously adopted amendments to the Village's floodplain management regulations within Chapter 10 "Floods" of the Code of Ordinances; and

WHEREAS, in order to demonstrate compliance with the flood plain management regulations promulgated by the Federal Emergency Management Agency (FEMA), the Village Council desires to adopt regulations prohibiting manufactured homes and providing for regulations of recreational vehicles; 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 changes within this Ordinance meet the applicable review criteria set forth in Section 30-71(b) of the Code; 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 30-11 of the Village Code Amended. That Section 30-11 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

Section 30-11. Definitions.

[As used in this chapter, the following words and terms shall have the meanings respectively ascribed:]

* * *

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ''Manufactured Home'' does not include a ''Recreational Vehicle''.

* * *

Section 3. Section 30-41 of the Village Code Created. That Section 30-41 of the Code of Key Biscayne, Florida, is hereby created to read as follows:

Sec. 30-41. Recreational Vehicles and Manufactured Homes.

(1) Manufactured Homes shall be prohibited within the Village.

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

(2) A Recreational Vehicle shall be stored in a garage or Carport and shall not be permitted to remain on a property for more than 180 days in one (1) calendar year, regardless of whether the days are consecutive.

Section 4. **Section 30-100(f)(14) of the Village Code Created.** That Section 30-100(f)(14) of the Code of Key Biscayne, Florida, is hereby deleted to read as follows:

(14) ~~*Motor Homes and Trailers.* No vehicle that has accommodations that permits it to be inhabited overnight shall be permitted unless it is stored in a garage or Carport.~~ [Reserved]

Section 5. **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 6. **Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2014.

PASSED AND ADOPTED on second reading this _____ day of _____ , 2014.

_____
MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

VILLAGE ATTORNEY

CHRONOLOGY

The following is a chronological summary of events associated with the FEMA Community Assistance Visit (CAV):

Receipt of CAV Schedule Letter	6/30/2011
CAV conducted at Village	9/26/2011 through 9/28/2011
Comments from FEMA to Mayor	11/5/2011
Receipt of FEMA comments to Mayor dated	11/5/2011 – 2/23/2012
Request for Extension of submittal deadline	2/27/2012
Receipt of Extension Approval	3/13/2012
Submittal to FEMA Comment period	11/5/2011 – 5/16/2012
Receipt of email comments from FEMA	2/8/2013
Submittal response to comments of 2/8/2013	4/4/2013
Receipt of email comments from FEMA	10/25/2013
Request for Extension of submittal deadline of 12/13/2013	12/11/2013
Receipt of Extension Approval	12/12/2013
Response Submittal Due	1/15/2014
Ordinance Revision Submittal Due	2/7/2014

VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

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

DT: January 14, 2013

TO: John C. Gilbert, Village Manager

FR: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department

Director
Jud Kurlancheek, AICP

Chief Building Official
Eugenio M. Santiago, P.E., CFM

RE: Amendment to the Zoning and Land Development Regulations: Manufactured Homes and Recreational Vehicles

APPLICATION SUMMARY

Applicant	The Village of Key Biscayne
Request	Amendment to the Zoning and Land Development Regulations relating to manufactured homes and recreational vehicles
File Number	AZO 14-01
Recommendation	Approval

EXPLANATION AND ANALYSIS

Summary of the Proposed Ordinance: The proposed ordinance prohibits manufactured homes and permits recreational vehicles to remain on the property for no more than180 days in any one (1) calendar year.

Text Amendment Review Criteria: The Village's Zoning Ordinance requires that text amendments to the Zoning and Land Development Regulations be evaluated based on the following criteria:

Criteria 1 The proposed amendment is consistent with the Comprehensive Plan.

Analysis: In 1994, the Comprehensive Plan inventoried nine (9) mobile homes or trailers. Today, there are none. The Comprehensive Plan also stated (page 85) that " because of real estate values, mobile homes are not expected". There is one (1) known recreational vehicle in the Village. Since this recreational vehicle has been in place for many years, it will be permitted to remain.

Recommendation Consistent

Criteria 2 The proposed change will result in buildings that are consistent in scale and otherwise compatible with those within 300 ft. of the site

Analysis The proposed change does not affect the scale of buildings. As such, this criteria cannot be applied.

Recommendation Since the proposed change cannot be evaluated by the criteria, a recommendation cannot be provided.

Criteria 3 The resulting boundaries of a zoning district are logically drawn.

Analysis The proposed change does not affect zoning district boundaries.

Recommendation Since the proposed change cannot be evaluated by the criteria, a recommendation cannot be provided.

Criteria 4 The proposed change will enhance property values in the Village.

Analysis The proposed changes will maintain our compliant status with FEMA regulations and the Community Rating System (CRS) which will enable our property owners to continue to receive savings on their flood insurance premiums.

Recommendation Consistent

Criteria 5 The proposed change will enhance the quality of life in the Village.

Analysis The proposed changes do not affect the quality of life in the Village.

Recommendation Not applicable

Criteria 6 There are substantial and compelling reasons why the proposed change is in the best interests of the Village.

Analysis It is absolutely critical that our regulations are consistent with FEMA's; otherwise, the Village's Community Rating will be lowered which will cause an increase in our property owner's flood insurance premiums.

Recommendation Consistent

RECOMMENDATION

Staff recommends approval of the attached Ordinance as the proposed changes are consistent with the evaluation criteria.