

ORDINANCE NO. 2003 - 1

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-102 "GU GOVERNMENT USE DISTRICT" RELATING TO DEVELOPMENT STANDARDS AND PROCEDURES FOR GOVERNMENTAL USES; AMENDING SECTION 30-108 "PROS PUBLIC RECREATION AND OPEN SPACE DISTRICT"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council finds that it is appropriate and reasonable to amend the GU Government Use and PROS Public Recreation and Open Space Districts in order to clarify and to provide for additional standards and processes for designating uses in these districts; and

WHEREAS, the Local Planning Agency at a duly called public meeting has heard and recommended the adoption of this ordinance as consistent with the Village Comprehensive Plan; and

WHEREAS, this proposed ordinance has been properly noticed and heard in conformance with Section 166.041, Florida Statutes, relating to zoning ordinances, and in conformance with the Village Zoning and Land Development Regulations; and

WHEREAS, the Village Council has determined that this ordinance is consistent with the criteria in Section 30-71 of the Village Zoning and Land Development Regulations and is consistent with the Village Master Plan; and

WHEREAS, the Village Council finds that this ordinance will promote the health, safety and welfare of the citizens of the Village.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA:

Section 1. **Recitals Adopted.** Each of the above recitals is hereby confirmed and adopted.

Section 2. **Section 30-102 Amended.** Section 30-102 "GU Government Use District" of the Zoning and Land Development Regulations of the Village of Key Biscayne is hereby amended as follows:

Sec. 30-102. GU Government Use District.

(a) GU Description. Upon the acquisition of ownership of or a long term lease (5 years or longer) of land by the Village, the Village Manager or designee shall indicate on the Official Zoning Map that the zoning district designation for the property is GU, Government Use.

(b) Purpose and Uses.

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to permit land owned by governmental entity to be used for public purpose	Governmental buildings and facilities such as schools, offices, post offices, parks, open space, community centers, recreational buildings, police and fire stations	None	Any customarily associated with the Permitted Use (See Sec. 30-111)	Any Use not listed as Main Conditional Use, or Accessory Use (See Sec. 3-113)

(c) Development Regulations. In approving development for lands designated GU, the Council shall use the following Development Regulations.

Floor Area Ratio	Maximum Height	Lot Coverage	Lot Area	Setback
.75	35 ft.	35%	No minimum	5 ft., except where prior zoning district has a more liberal setback standard, which shall then apply

(d)-Approval Process. Prior to establishing any new use of lands designated GU, the Village shall conduct the following public hearing(s):

1. The Village Council shall conduct a public hearing to determine the use(s) to which particular land purchased for governmental use may be put. The public hearing before the Village Council shall be held upon at least fifteen (15) days notice of the time and place of such hearing published in a newspaper of general circulation in the Village. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the proposed use may be mailed to the property owners of record within a radius of three hundred (300) feet of the property on which the facility will be located, or such greater distance as the Village Manager may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon.

2. At the public hearing the Village Council shall consider the use(s) to which the land should be put, from the list of uses in paragraph (b) above, considering among other factors a recommendation by the Village Manager (if any), the public need therefor and the existing land use pattern in the area. After considering these factors and any public comment, the Village Council shall adopt a resolution establishing the use(s) for the property and take such action as is necessary to

promote and protect the public health, safety and welfare of the citizens and residents of the Village.

3. If the use(s) approved by the Village Council include the construction of any buildings or structures on the property, the Village Council shall conduct another public hearing prior to the commencement of any construction activity. That public hearing shall be noticed in the same manner as the initial hearing described in (d)1 above. At the public hearing the Village Council shall review and evaluate a detailed site plan for the property, including all buildings and improvements. At a minimum, the site plan shall contain a schedule of development criteria as set forth in (c) above. In its review and approval, the Village Council shall apply the development regulations in (c) above, except that the Village Council may waive the regulations or any part of the regulations in the interest of the public health, safety and welfare to provide the facilities to serve the public. After considering the site plan, recommendations of the Village Manager (if any) and public comment, the Village Council may by resolution take such action as it deems necessary or appropriate to promote and protect the public health, safety and welfare of the citizens and residents of the Village, including the approval of the site plan with any modifications thereto.

(e) Change Upon Sale or Lease Expiration. Upon the sale (or expiration of a long term lease) of GU land that was owned (or leased) by the Village, the Village Council shall change the zoning district designation pursuant to the procedures established in this section.

(f) Conflict. This Section 30-102 shall be the exclusive regulation governing lands designated GU, and to the extent that it conflicts with any other section of this chapter, this section shall control.

Section 3. Section 30-108 Amended. Section 30-108 "PROS Public Recreation and Open Space Use District" of the Zoning and Land Development Regulations of the Village of Key Biscayne is hereby amended as follows:

Sec. 30-108. PROS Public Recreation and Open Space Use District.

(a) Purpose and Uses. The PROS Public Recreation and Open Space Use District is an alternative zoning district to the GU Government Use District, where the Village has ownership or a long term lease (5 years or more) of land and desires to use the land for public recreation or open space purposes.

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to permit public noncommercial recreational <u>or open space</u> Uses	Parks, <u>swimming pools and decks</u> Active and passive recreational Uses	None	Any Use customarily associated with the Main Permitted Use (See Sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See Sec. 30-113)

(b) Development Regulations. In approving development for lands designated PROS, the Village Council shall use the following Development Regulations.

<u>Floor Area Ratio</u>	<u>Maximum Height</u>	<u>Lot Coverage</u>	<u>Lot Area</u>	<u>Setback</u>
<u>.75</u>	<u>20 ft.</u>	<u>15%</u>	<u>No minimum</u>	<u>5 ft., except where prior zoning district has a more liberal setback standard, which shall then apply</u>

(c) Approval Process. Prior to establishing any new use of lands that are designated PROS, the Village shall conduct a public hearing or hearings pursuant to the procedures set forth in Section 30-102 GU Government Use District. Upon the sale (or expiration of a long term lease) of PROS land that was owned (or leased) by the Village, the Village Council shall change the zoning district designation pursuant to the procedures established in Section 30-102 GU Government Use District.

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 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.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and 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.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 14th day of January, 2003.

PASSED AND ADOPTED on second reading this 11th day of February, 2003.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY