

ORDINANCE NO. 2004-7

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 17 "NOISE," BY AMENDING SECTION 17-5 "EXEMPTIONS", AT PARAGRAPH (b) THEREOF, TO CREATE SUBPARAGRAPH (3) TO PROVIDE FOR AN EXEMPTION FOR PUBLIC SCHOOL CONSTRUCTION WORK; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the School Board of Miami-Dade County, Florida (the "School Board"), has requested that the noise regulations of the Village be amended to provide for an exemption for public school construction or improvement projects of the School Board, so as to facilitate the completion of necessary public school projects; and

WHEREAS, the Village Council finds that an amendment of the Village noise regulations, as provided herein, is in the best interest of the Village.

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

Section 1. Recitals Adopted. That each of the above stated recitals is 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 17 "Noise", at Section 17-5 "Exemptions", by creating paragraph (b)(3) of said section to read as follows:¹

Sec. 17-5. Exemptions.

The terms and prohibitions of this chapter shall not be applied to or enforced against:

* * * *

¹ / Additions to existing Village code text are indicated by underline; deletions from existing Village code text are indicated by ~~strikethrough~~.

(b) (1) Excavation or repairs of bridges, streets, highways, street lights or utilities, by or on behalf of the Village, the County, or the State, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.

(2) The construction of public improvement projects of the Village, including, but not limited to, beach renourishment projects, but solely to the extent authorized by and subject to the conditions set by resolution of the Village Council, as adopted after public hearing. Any violation of the conditions of the resolution shall cause a waiver of the exemption and shall constitute a violation of this chapter.

(3) The construction of public school improvements as a project of the School Board of Miami-Dade County, Florida (the "School Board"), including, but not limited to, the improvement of existing schools or construction of new schools, but solely to the extent authorized by and subject to the conditions set by resolution of the Village Council, as adopted after a public hearing. Any violation of the conditions of the resolution shall cause a waiver of the exemption and shall constitute a violation of this chapter.

Section 3. **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 4. **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 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 5. **Effective Date.** That this Ordinance shall be effective immediately upon

adoption on second reading.

PASSED AND ADOPTED on first reading this 25th day of May, 2004.

PASSED AND ADOPTED on second reading this 22nd day of June, 2004.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN PASTORIZA
GUEDES COLE & BONISKE, P.A.
VILLAGE ATTORNEYS