

ORDINANCE NO. 2004-9

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 30 "ZONING," AT SECTION 30-104 "INSTITUTIONAL DISTRICT" TO ADD "VILLAGE RECREATIONAL FACILITIES" TO THE LIST OF MAIN PERMITTED USES; AMENDING SECTION 30-112 "SUPPLEMENTAL USE REGULATIONS," AT SUBSECTION (h) "HEIGHT EXEMPTION" TO PROVIDE HEIGHT EXEMPTION FOR LIGHTING STRUCTURES FOR VILLAGE RECREATIONAL FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, upon recommendation of the Village Manager, the Village Council desires to amend the list of Main Permitted Uses under Section 30-104 "Institutional District" so as to enable lands zoned as Institutional District to be utilized for Village recreational facilities, and to amend section 30-112 "Supplemental Use Regulations," at Subsection (h) "Height Exemptions" to provide a height exemption for lighting structures for Village recreational facilities (the "Proposed Amendments"); and

WHEREAS, the Village Council has been designated as the local planning agency for the Village pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Village Council, sitting as the local planning agency, has reviewed the Proposed Amendments pursuant to the required public hearing, and has recommended approval of the Proposed Amendments; and

WHEREAS, the Village Council has held the required public hearings on this Ordinance, duly noticed in accordance with law; and

WHEREAS, the Village Council has determined that the Proposed Amendments enacted pursuant to this Ordinance are in compliance with the criteria of Section 30-71(b) of the Village Code and are consistent with the Village's Comprehensive Plan.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL
OF THE VILLAGE OF KEY BISCAZYNE, 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 Chapter 30 “Zoning” of the Village Code of the Village of Key Biscayne is hereby amended by amending Section 30-104 “Institutional District,” at paragraph (a) “Purpose and Uses,” by amending the list of Main Permitted Uses, and by amending subsection (h) “Height Exemptions” of Section 30-112 “Supplemental use Regulations”, to read as follows:¹

Sec. 30-104. Institutional District.

(a) *Purposes and Uses.*

<i>District Purpose</i>	<i>Main Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory Uses</i>	<i>Prohibited Uses</i>
This district is intended to permit uses that provide a public or semi-public service.	Places of worship. <u>Village Recreational Facilities.</u>	Community Residential Facilities	Any Use that is customarily associated with the Main Permitted Use. Day Care Facilities. Meeting rooms Schools (See Sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See Sec. 30-113 for other prohibited Uses)

^{1/} Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikeout~~.

Section 30-112 Supplemental Use Regulations:

* * *

(h) *Height exemptions.* The height Regulations as set forth in the zoning districts, shall not

apply to the following:

- | | |
|-----------------------------------|--|
| (1) Airplane Beacons | (15) Stacks |
| (2) Belfries | (16) Steeples and domes |
| (3) Communication Towers | (17) Smoke stacks |
| (4) Chimneys | (18) Tanks |
| (5) Church spires | (19) Roofs (see subparagraph d. below) |
| (6) Conveyors | (20) Satellite dishes (see subparagraph l below) |
| (7) Cooling towers | (21) Television antenna |
| (8) Cupolas | (22) Towers, decorative |
| (9) Elevator bulkheads | (23) Water Towers |
| (10) Fire Towers | (24) <u>Lighting structures for Village recreational facilities</u> |
| (11) Flag poles | (24) (25) <u>Any other Structure that is similar to those listed above.</u> |
| (12) Lofts | |
| (13) Monuments | |
| (14) Ornamental Towers and spires | |

The above listed exemptions are allowed, provided the following criteria are met:

- (a) The maximum height allowed in the district shall not be exceeded by more than 35 percent, except for the height of roofs, which shall be pursuant to subparagraph (d) below, and except for lighting structures for Village recreational facilities (including lighting for playing fields) which may have a height of up to 70' feet. The maximum Floor Area of any of the rooftop structures listed above is limited to ten percent of the roof area of the entire Building. Equipment shall be screened in a manner that prevents it from being seen from the Street. The Building, Zoning and Planning Director may require a line of sight study in order to make this determination.
- (b) Parapet Walls may exceed the permissible height limit provided that they shall not extend more than five feet above the flat portion of the Building roof upon which they are constructed.
- (c) Notwithstanding other provisions of these Regulations, the height of all Structures shall be limited by the requirements of the Federal Aviation Administration and any airport Regulations applicable to the Structure.
- (d) Principal Building roofs shall comply with the following requirements:
 - 1. Hip roofs shall be symmetrically pitched between 4:12 and 8:12 ratios.
 - 2. Gable end roofs shall be symmetrically pitched between 6:12 and 12:12 ratios. Profile molded gables may be pitched to a 4:12 minimum ratio.

3. Flat roofs shall have a minimum Parapet height of one foot.
4. Shed roofs shall have a minimum pitch of 3:12 ratio.
5. Roof overhang. No portion of a roof, including the gutter, shall be permitted to extend more than five feet from the exterior Wall of a Building and not closer than 3.5 feet from an interior side property line or 2.5 feet from any Wall facing a Street.
6. When a scupper drainage system is used, the scupper shall have a minimum 7.5 foot Setback from any Lot line.

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 3rd day of August, 2004.

PASSED AND ADOPTED on second reading this 31st day of August, 2004.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

F:\100\103001\Ordinances\Account Ordinance 5.12.04.doc