

**ORDINANCE NO. 2008-6**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS A PROPOSED AMENDMENT TO THE VILLAGE CHARTER IN ACCORDANCE WITH SECTION 6.02(a)(i) OF THE VILLAGE CHARTER; SUBMITTING A PROPOSED CHARTER AMENDMENT CONCERNING SECTION 4.15 "APPROVAL BY VOTE OF ELECTORS REQUIRED FOR AMENDMENTS TO LAND DEVELOPMENT REGULATIONS"; PROVIDING FOR AN AMENDMENT OF SECTION 4.15 TO PROVIDE THAT VOTER APPROVAL IS REQUIRED FOR ANY VILLAGE COUNCIL AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS (INCLUDING ZONING CODE) WHICH INCREASES THE DENSITY OR INTENSITY FOR THE DEVELOPMENT OF ANY PROPERTY IN THE VILLAGE; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION TO BE HELD ON TUESDAY, THE 4TH DAY OF NOVEMBER, 2008; PROVIDING NOTICE OF ELECTION; PROVIDING FOR BALLOTING AND ELECTION PROCEDURES; PROVIDING FOR INCLUSION IN THE CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** on June 12, 2007 the electors of the Village of Key Biscayne passed an amendment to the Village of Key Biscayne Charter, which created Section 4.15, restricting the Village Council's ability to modify the Village Land Development Regulations (including the Zoning Code) without a vote of the electors; and

**WHEREAS,** specifically the creation of Charter Section 4.15 has restricted the ability of the Key Biscayne Village Council to perform its responsibilities with respect to planning and zoning issues; and

**WHEREAS,** in order for the Village Council to govern effectively, the Charter must be modified to restore in the Village Council greater flexibility while at the same time protecting the interests and addressing the concerns of the residents to ensure that any increases to density and

intensity of development are subject to the approval of the Village electors.

**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 recitals stated above is hereby adopted and confirmed.

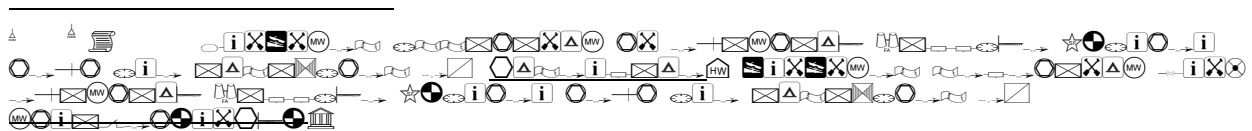
**Section 2. Charter Amendment.** That pursuant to Section 6.02(a)(i) of the Village Charter and Section 6.03 of the Miami -Dade County Charter, the Village Charter of the Village of Key Biscayne, Florida, is hereby amended by amending Village Charter Section 4.15, as described below in Part A, to read as follows:<sup>1</sup>

**Part A.** That Section 4.15 "Approval by Vote of Electors Required for Amendments to Land Development Regulations" of the Village Charter, is amended to read as follows:

**Sec. 4.15. Approval by Vote of Electors Required for Amendments to Land Development Regulations.**

~~No text amendment to the zoning code or other land development regulations that would create a new zoning district, or that would amend any definition of a term used in the land development regulations, or that would have the effect of allowing a use not currently permitted, increased residential density, additional hotel or other accommodation units per acre, or increased lot coverage, height, or floor area ratio, shall be effective until approved by a majority vote of the electors voting on the amend ment.~~

The Village Council shall not amend, in any manner, the text of the Village 's Land Development Regulations (including the Zoning Code), if the amendment would establish a new use or would directly or indirectly increase



the density or the intensity (height, floor area, or lot coverage) for any type of development on any property in the Village without approval of such amendment by a majority vote of the electors voting on the amendment.

**Section 3.**     **Election Called.** That a special election is hereby called, to be held on Tuesday, the 4<sup>th</sup> day of November, 2008, to present to the qualified electors of the Village of Key Biscayne, the ballot question provided in Section 4 of this Ordinance.

**Section 4.**     **Form of Ballot.**

A.     That the form of ballot for the Charter Amendment provided for in Section 2 of this Ordinance shall be substantially, as follows:

1.     **Reform of Referendum Requirements for Land Development Regulation Changes**

The Village Charter currently restricts the Village Council from making changes to the Village's Land Development Regulations without approval of the electors. It is proposed that the Charter be amended to limit the electoral approval requirement to any amendments by the Council to the text of the Village Land Development Regulations which would establish a new use or directly or indirectly increase development density or intensity of any property in the Village.

Shall the above-described Charter Amendment be adopted?

[ ]     Yes

[ ]     No

B.     That the Village Council may revise the ballot form which is set forth above by Resolution.

**Section 5.**     **Balloting.**

A.     That balloting shall be conducted on Tuesday, the 4<sup>th</sup> day of November, 2008, between the hours of 7:00 A.M. and 7:00 P.M. at the regular polling places provided for Village elections. Absentee balloting shall be available as authorized by law.

Early voting pursuant to Sec. 101.657, F.S. shall be provided. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote.

- B. That the Village Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until October 6, 2008, at which date the registration books shall close in accordance with the provisions of the general election laws. The Village Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Ordinance. This special election shall be canvassed pursuant to Village Code Section 2-102, unless otherwise provided by law.
- C. That the Village Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

**Section 6.**     **Notice of Election.** That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Village at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, September 28, 2008), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, October 12, 2008), and shall be in substantially the following form:

"NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO  
ORDINANCE NO. 2008-6 ADOPTED BY THE VILLAGE  
COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA

(THE "VILLAGE") A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE VILLAGE ON TUESDAY, THE FOURTH DAY OF NOVEMBER, 2008, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSAL SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE VILLAGE FOR APPROVAL OR REJECTION.

**Reform of Referendum Requirements for Land Development Regulation Changes**

The Village Charter currently restricts the Village Council from making changes to the Village's Land Development Regulations without approval of the electors. It is proposed that the Charter be amended to limit the electoral approval requirement to any amendments by the Council to the text of the Village Land Development Regulations which would establish a new use or directly or indirectly increase development density or intensity of any property in the Village.

Shall the above-described Charter Amendment be adopted?

Yes

No

**The full text of the proposed Village Charter Amendment is available at the office of the Village Clerk located at 88 W. McIntyre Street, Key Biscayne, Florida 33149.**

\_\_\_\_\_  
" Village Clerk

**Section 7. Copies.** That copies of this Ordinance proposing the Charter Amendment are on file at the offices of the Village Clerk located at 88 W. McIntyre Street, Key Biscayne, Florida 33149, and are available for public inspection during regular business hours.

**Section 8. Effectiveness.** That the Charter Amendment provided for in Section 2 above shall become effective if the majority of the qualified electors voting on the Charter Amendment

vote for its adoption, and it shall be considered adopted and effective upon certification of the election results. Following adoption of the Charter Amendments, the Village Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami -Dade County, Florida.

**Section 9. Inclusion In The Charter.** Subject to the requirements of Section 8 above, it is the intention of the Village Council and it is hereby provided that the Charter Amendment shall become and be made a part of the Charter of the Village of Key Biscayne; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention.

**Section 10. Effective Date of Ordinance.** That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 8th day of April, 2008.

PASSED AND ADOPTED on second reading this 8th day of July, 2008.

MAYOR ROBERT L. VERNON

ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY