

**ORDINANCE NO. 2011-13**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A VESSEL EXCLUSION ZONE/SWIM AREA GENERALLY LOCATED WEST OF 400 HARBOR DRIVE TO 500 BAY LANE AS FURTHER DESCRIBED ON EXHIBIT "A;" PROVIDING FOR GENERAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the "Village"), pursuant to Section 327.46, F.S., has the authority to adopt vessel exclusion zone/swim areas within the Village; and

**WHEREAS**, the operating of vessels close to the shoreline and within swimming areas is a threat to the safety and welfare of the public and swimmers; and

**WHEREAS**, in order to protect the public and swimmers, the Village Council desires to create a vessel exclusion zone/swim area for the area generally located west of 400 Harbor Drive to 500 Bay Lane as further described on Exhibit "A;" and

**WHEREAS**, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

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

**Section 1.** The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2.** **Section 4-32 of the Village Code Amended.** The Village Council hereby amends Section 4-32 "Prohibited Water Activity" as follows:

**Sec. 4-32. - Prohibited water activity.**

- (1) No owner, operator or Person in command of any Vessel shall permit or operate a Vessel within the area of the Atlantic Ocean, 300 feet east of the Beach from the southern boundary of Crandon Park to the northern boundary of Bill Baggs, Cape Florida State Park, except as authorized by the Village Council.
- (2) No owner, operator or Person in command of any Vessel shall permit or operate a Vessel within the area of Biscayne Bay, generally located west of 400 Harbor Drive through and including 500 Bay Lane as shown on the Nixon Beach Swim Zone Map, except as authorized by the Village Council.

[Add Map]

- (3) Vessels utilized for an emergency response and/or sea rescue or for ensuring compliance with local, state, or federal law are excluded from the provisions of this section.

**Section 3. 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 4. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this 12th day of April, 2011.

PASSED AND ADOPTED on second reading this 30th day of August, 2011.

MAYOR FRANKLIN H. CAPLAN

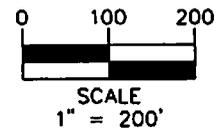
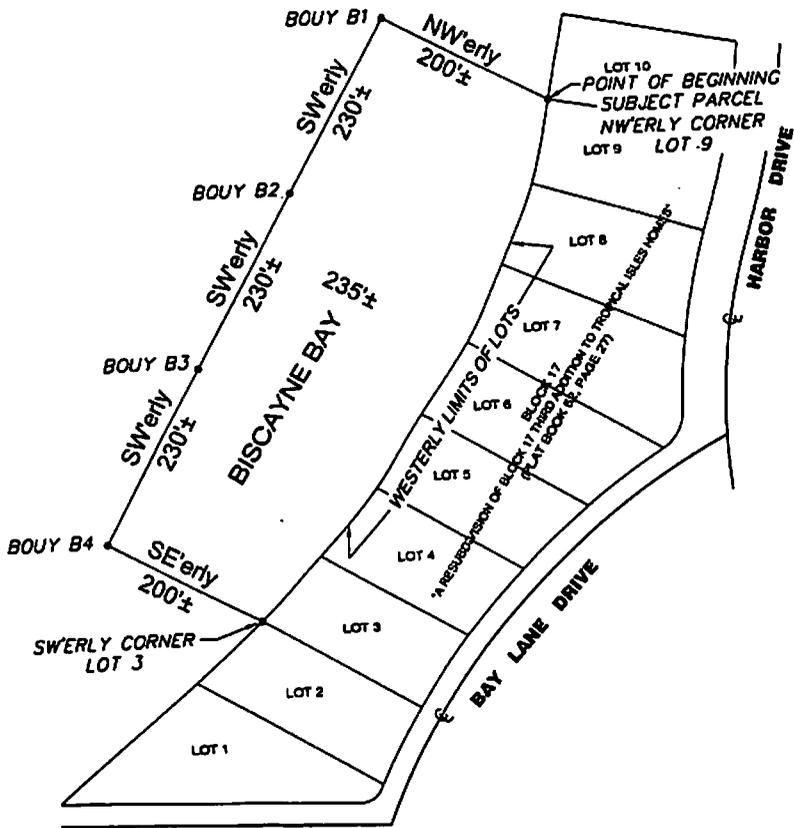
ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

**SKETCH TO ACCOMPANY LEGAL DESCRIPTION**  
for  
**VILLAGE OF KEY BISCAYNE**



**LEGAL DESCRIPTION:**  
PORTION OF BISCAYNE BAY  
NIXON BEACH SWIM ZONE  
VILLAGE OF KEY BISCAYNE

A body of water in Biscayne Bay, lying westerly of Lots 3 through 9, in Block 17 of "A RESUBDIVISION OF BLOCK 17 THIRD ADDITION TO TROPICAL ISLES HOMES", according to the plat thereof, as recorded in Plat Book 52, at Page 27 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the NW'erly Corner of said Lot 9, in Block 17; Thence meander to the following 4 courses lying in Biscayne Bay; 1) NW'erly, to a bouy (B1), for 200 feet, more or less; 2) SW'erly, to a bouy (B2), for 230 feet, more or less; 3) SW'erly, to a bouy (B3), for 230 feet, more or less; 4) SW'erly, to a bouy (B4), for 230 feet, more or less; Thence meander SE'erly, for 200 feet, more or less, to the SW'erly corner of Said Lot 3; Thence meander NE'erly along the Westerly lot limits of said Lots 3 through 9 to the Point of Beginning.

Containing 168,043 Square Feet, more or less, by calculations.)

**NOTICE:** Not full and complete without all pages. Total of Two (2) Pages

No. 11379  
Page 1 of 2

**SKETCH TO ACCOMPANY LEGAL DESCRIPTION**  
for  
**VILLAGE OF KEY BISCAIYNE**

**SOURCES OF DATA:**

The Legal Description of the Subject Property was generated from the plat of "A RESUBDIVISION OF BLOCK 17 THIRD ADDITION TO TROPICAL ISLES HOMES", recorded in Plat Book 52, Page 27, Miami-Dade County Records.

In addition, the following sources of data were used to the extent required to complete this document in a defensible matter, that is to say:

Permit Sketches of Nixon Beach Swim Zone / Vessel Exclusion Zone as prepared by Coastal Systems International, Inc. for the Village of Key Biscayne.

**EASEMENTS AND ENCUMBRANCES:**

No information was provided as to the existence of any easements other than what appears on the underlying Plat of record. Please refer to the Limitations item with respect to possible restrictions of record and utility services.

**LIMITATIONS:**

Since no other information other than what is cited in the Sources of Data were furnished, the Client is hereby advised that there may be legal restrictions on the subject property that are not shown on the Sketch or contained within this Report that may be found in the Public Records of Miami-Dade County, Florida or any other public and private entities as their jurisdictions may appear.

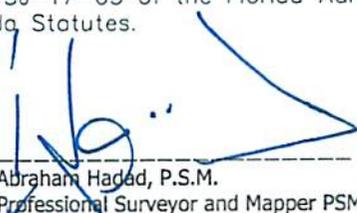
This document does not represent a field boundary survey of the described property, or any part or parcel thereof.

**INTENDED USE / EXPRESS PURPOSES:**

It is understood by the Surveyor that the intended use of this document is to designate a body of water in Biscayne Bay.

**SURVEYOR'S CERTIFICATE:**

I hereby certify that this "Sketch to Accompany Legal Description," was prepared under my direction and is true and correct to the best of my knowledge and belief and further, that said Sketch meets the intent of the "Minimum Technical Standards for Land Surveying in the State of Florida", pursuant to Rule 5J-17-05 of the Florida Administrative Code and its implementing Rule, Chapter 472.027 of the Florida Statutes.

By:  Date: 11/15/2011

Abraham Haded, P.S.M.  
Professional Surveyor and Mapper PSM No. 6006  
State of Florida  
HADONNE CORR  
Land Surveyors and Mappers  
Certificate of Authorization LB7097  
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NOTICE: Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper. Each Sheet as incorporated therein shall not be considered full, valid and complete unless attached to the others. This Notice is required by Rule 5J-17-05 of the Florida Administrative Code.