

**ORDINANCE NO. 2004-2**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION" AT ARTICLE I "IN GENERAL" BY CREATING SECTION 2-10 "ADVISORY BOARDS", ESTABLISHING PROVISIONS FOR THE CREATION, COMPOSITION, DUTIES, AND ADMINISTRATION OF ADVISORY BOARDS; RATIFYING CREATION OF CERTAIN ADVISORY BOARDS INCLUDING THE CRANDON BOULEVARD STREETScape ADVISORY COMMITTEE AND THE NOISE ORDINANCE REVIEW COMMITTEE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, the Village Council desires to establish Village Code provisions concerning the creation, composition, duties and administration of advisory boards of the Village, pursuant to the requirements of the Village Charter; and

WHEREAS, the Village Council desires to ratify the previous creation and establishment of two village boards which are of limited duration, to wit: the Crandon Boulevard Streetscape Advisory Committee and the Noise Ordinance Review Committee.

**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.     Code Amended.** That the Village Code of the Village of Key Biscayne, Florida, is hereby amended by amending Article I "In General", of Chapter 2 "Administration," by creating Section 2-10 "Advisory Boards", to read as follows:

**Sec. 2-10. Advisory Boards**

- (a) Pursuant to Village Charter Section 4.12, the Village Council shall establish such advisory boards, committees, bodies (the "Boards") as it may deem advisable. All Boards so established shall report to the Village Council. Unless otherwise provided by law, appointees to all Boards shall serve at the pleasure of the Village Council. Appointees may be removed from their appointive position upon motion of the Mayor or any member of the Village Council and upon vote of removal by a majority of the members of the Village Council.
- (b) Pursuant to Village Charter Section 2.02(a), the Mayor shall appoint members of the Boards with the approval of the Village Council. Pursuant to Section 4.02(c) of the Village Charter, no Councilmember shall hold any appointive office on any Board. However, Councilmembers may serve on such Board only as an ex officio, non-voting member if provided by the ordinance establishing the Board. Further, it is recognized that the restrictions upon Councilmembers as described above in this paragraph (b), are not applicable to committees of the Council which are composed solely of two or more members of the Village Council, since Section 2.02(a) of the Charter authorizes the Mayor to name committees of the Council.
- (c) Pursuant to Section 4.03(1) of the Village Charter, Boards shall be established, altered or abolished by ordinance adopted by the Village Council. The ordinance establishing the specific Board may provide for the Board to serve for a perpetual or indefinite term or may provide for the Board to serve for a limited duration and may include an appropriate sunset provision.
- (d) The ordinance which establishes the specific Board shall provide for the number and qualification of Board members, the procedure for nominating Board members, the length of term of office of Board members, rules of procedure for the Board, and the duties and responsibilities of the Board, and such other matters determined to be appropriate by the Village Council.
- (e) Unless otherwise provided by the ordinance which establishes a specific Board, Board reports which are presented to the Council shall include the following components:
  - (i) Name: The name of the Board making the report, a listing of officers, an attendance table including members and any other person(s) who attended the meetings, all agendas, minutes, staff reports, and any other documents that were reviewed by the Board.

This information may be compiled in a separate document.

- (ii) Methodology: The report shall include a description of the way in which the Board undertook its charge.
- (iii) Facts Found: The report shall include the facts uncovered or information obtained.
- (iv) Recommendations: The report shall include the recommendations of the Board, preferably in a form suitable for framing of a motion for the Village Council to consider.
- (v) Timing of report: Boards shall submit an annual progress report to the Village Council at the first Council meeting in December of each year. The annual progress report shall include a listing of the Boards' work program for the following calendar year. The Boards' work program shall be subject to approval by the Village Council. Those Boards of limited duration which have completed their work prior to the December timeframe set forth above, shall earlier present their report to the Council once their assigned work has been completed. In addition, the Chair or designated member(s) of each Board shall provide a quarterly verbal report to the Village Council which addresses the progress that the Board has made in completing the Board's work program. The quarterly progress reports shall be presented at the first Village Council meeting in each of the following months: March, June and September. The annual progress report in December shall serve as the progress report for that quarter. As background information for the quarterly reports of the Board, Village staff shall provide the Village Council with an attendance chart of the Board, Board agendas, Board minutes, the yearly work program of the Board, and a list of the accomplishments that the Board has achieved during the prior quarter.
- (vi) Signatures: All members of the Board who concur with the report must sign the report. The chair may sign the report only if a majority of the members of the Board approve the report and authorize the chairman to sign. Those members who do not concur with the report shall be listed as dissenting members. The dissenting members may submit their own report(s) in the same format as presented above.
- (vii) Resolution: The Board's report may include a proposed resolution for

consideration by the Village Council as a vehicle for adopting the recommendations of the Board.

- (f) The public and Board members shall be given notice at least forty-eight (48) hours prior to any special Board meetings. Generally, at least three (3) days notice shall be given to the public and Board members of regular Board meetings. The public shall be notified of Board meetings by posting at Village Hall. The public notice shall advise of the potential for attendance of one or more Village Council members at the meeting of the Board. Village staff shall notify Board members of Board meetings by telephone or mail or fax or email or hand delivery. A written agenda shall be prepared and distributed by assigned Village staff for each Board meeting. Special Board meetings may be called by the Chairman or by a majority of the Board members. All Board proceedings shall comply with Section 286.011, F.S., (the "Sunshine Law"). Written minutes shall be promptly prepared and kept of all Board meetings and shall be submitted to the Village Clerk who shall be responsible for the preservation of such minutes. The Village staff that is assigned to a Board is responsible for forwarding the minutes to the Village Clerk.
- (g) Unless otherwise provided by the ordinance which created the Board, members of Boards who are absent from three regularly scheduled meetings of the Board in any one calendar year shall be automatically removed from the Board. Each Board shall determine which meetings are considered as the "regularly scheduled meetings". Board members who are removed through this process may be reappointed by the Mayor subject to approval of the Village Council.
- (h) Unless prohibited by Article II, Section 5(a) of the Florida Constitution (the dual office holding prohibition), a person may serve on more than one Board.
- (i) A Board has no power to discipline its members for improper conduct related to its proceedings. Any such incident of misconduct shall be reported to the Village Council. This shall not diminish the authority of the Board Chairman to maintain order at meetings.
- (j) Unless otherwise provided in the ordinance which established the Board, a majority of the Board members shall constitute a quorum. No business shall be conducted unless a quorum is present, other than by a committee of the whole process which may be invoked when a quorum fails to attend a regular meeting. Any vote by the committee of the whole shall be preliminary and non-binding and shall be subject to subsequent ratification by a quorum of the Board at a duly held meeting.

- (k) A Board may adopt rules of procedure governing its conduct which do not conflict with either the fundamental parliamentary procedures of Roberts Rules of Order or with this ordinance. Each Board shall appoint a Chairperson, Vice Chairperson and Secretary who may engage in discussions, make motions and vote on items before the Board in the same manner as other Board members. This section shall prevail over any conflicting provision of Roberts Rules of Order.

**Section 3. Ratification of Temporary Board.**

A. That the creation and establishment of the Crandon Boulevard Streetscape Advisory Committee, previously created for the purposes of assisting in the preparation of the Crandon Boulevard Streetscape Master Plan (the "Streetscape Plan"), pursuant to Resolution No. 2003-4, is hereby ratified and the Board is recognized as a Village Board. Such Board shall be governed by the provisions of Section 2-10(e)-(k) of the Village Code. The duration of the Board is limited and shall expire upon completion of the task of the Board as reflected by presentation to the Council of a report of recommendations for the Streetscape Plan. The Board shall be dissolved upon completion of such task.

B. That the creation and establishment of the Noise Ordinance Review Committee, pursuant to Council action of January 28, 2003 is hereby ratified, and the Board is recognized as a Village Board. Such Board shall be governed by the provisions of Section 2-10(e)-(k) of the Village Code. The duration of the Board is limited and shall expire upon completion of the task of the Board as reflected by presentation to the Council of a report of recommendations for amendments to the Village Noise Ordinance. The Board shall be dissolved upon completion of such task.

C. That the creation and establishment of the Boards identified in paragraphs "A" and

"B" above shall be effective as of the date that such Boards were previously intended to be established, to-wit: the 28th day of January, 2003, for the Crandon Boulevard Streetscape Advisory Committee; and the 28<sup>th</sup> day of January, 2003 for the Noise Ordinance Review Committee.

**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.** That it is the intention of the Village Council, and it is hereby ordained that the provisions of Section 2 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.** That this Ordinance shall be effective immediately upon adoption on second reading, except that this Ordinance shall be earlier effective as to the ratification of Boards indicated in Section 3 above.

PASSED AND ADOPTED on first reading this 13<sup>th</sup> day of January, 2004.

PASSED AND ADOPTED on second reading this 10th day of February, 2004.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

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