ORDINANCE NO. 2012 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLAT AREA, AS FURTHER DESCRIBED ON EXHIBIT "A," WITHIN THE VILLAGE'S MUNICIPAL BOUNDARIES TO NON-MOTORIZED VESSELS; 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 zones within the Village; and

WHEREAS, the operation of motorized vessels within the Mashta Flat destroys seagrass beds, which are habitat to many fish species, invertebrates, crustaceans, marine turtles, and manatees; and

WHEREAS, in order to protect the seagrass beds and habitat of animals within the Mashta Flat, the Village Council desires to create a vessel exclusion zone, which limits the Mashta Flat area, as further described on Exhibit "A," within the Village's municipal boundaries to non-motorized vessels; 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.

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(3) No owner, operator or Person in command of any motorized Vessel shall permit or operate such Vessel within the Mashta Flat area within the Village's municipal boundaries as shown on the Mashta Flat Map below. For purposes of this section, a motorized Vessel shall mean all Vessels equipped with any mechanical means of propulsion regardless if the mechanical means of propulsion are in use.

[add map]

(4~~3~~) Vessels used solely for an emergency/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 6th day of December, 2011.

PASSED AND ADOPTED on second reading this __ day of ____, 2012.

_____
MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY

HADONNE

Land Surveyors and Mappers
3D Mappers
GPS / GIS Services
Subsurface Utility Surveyors

VILLAGE OF KEY BISCAYNE