RESOLUTION NO. 2012-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ESTABLISHING THE VILLAGE AS A WIRELESS/TEXT FREE ZONE; ADOPTING A POLICY THAT NO PERSON SHALL USE A WIRELESS ELECTRONIC COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE WITHIN THE VILLAGE; PROHIBITING VILLAGE EMPLOYEES, VENDORS, CONTRACTORS, AND OTHERS FROM USING SUCH DEVICES WHILE OPERATING A MOTOR VEHICLE; ESTABLISHING A POLICY PROHIBITING THE USE OF ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING A VESSEL ON WATERS WITHIN THE VILLAGE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there exists a substantial body of evidence that the use of portable wireless electronic communication devices ("ECD") by drivers of automobiles is a danger to the driver, passengers, other drivers and the general public at large; and

WHEREAS, as early as 2002, the National Highway Traffic Safety Administration found that there were 955 deaths and 240,000 crashes attributable to drivers using cellular phones; and

WHEREAS, the Transport Research Laboratory in the United Kingdom, confirmed by Car and Driver Magazine, found that drivers' reaction time slowed by as much as 35 percent when reading an E-mail or text message, which is almost triple the effect on reaction time of drinking enough alcohol to be legally impaired; and

WHEREAS, the Village of Key Biscayne (the "Village") finds that the use of ECD while operating a motor vehicle or vessel is a grave threat to the safety and well being of the residents and visitors of the Village; and

WHEREAS, the Village is mindful of Section 316.0075, Florida Statutes, which expressly regulates operator or passenger use of commercial mobile radio services and other electronic communications devices in a motor vehicle; and

WHEREAS, the Village Council recognizes that the Florida Legislature has limited the right of local governments to regulate such activities, however, it is the Village's intent in adopting this Resolution to establish a public policy that discourages any such use of ECD while operating a motor vehicle and watercraft/vessels and to limit such use to the fullest extent permitted by law; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Resolution is in the best interest of the health, safety, and welfare of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. **Wireless/Text Free Zone.**

2.1 The Village Council hereby declares the Village, in its entirety, a "Wireless/Text Free Zone." It is the policy of the Village that no person shall use any ECD for voice communication, texting, E-mailing or otherwise communicating while operating a motor vehicle within the Village.

2.2 In order to promote this policy, the Village shall undertake the following:

2.2.1 Develop a campaign and broadly disseminate information on the adverse and potentially fatal consequences of using ECD while operating a motor vehicle; 2.2.2 Establish a prohibition on employees, vendors, contractors, and others

working directly or indirectly in any capacity for the Village from using ECD while driving a motor vehicle within the Village; and

2.2.3 Authorize law enforcement officers to distribute informational materials (including warnings) on the adverse affects of the use of ECD to any driver whom the officer observes violating the Village policy; and

2.24 Post signage and other notices which indicate the policy of the Village

2.3 The foregoing policy does not prohibit the use of ECD for verbal communication while operating a motor vehicle, so long as it is done with equipment that allows for fully hands free operation. Moreover, this policy does not preclude any law enforcement officer, firefighter or EMS personnel from using ECD during the course of their work, if necessary to perform their duties.

Section 3. **Vessels.** The Village Council hereby declares that (except as provided in Section 2.3 above) it is the policy of the Village that no person shall use ECD while operating a watercraft/vessel on the waters within the Village limits. The Village Council hereby directs the Village Attorney to prepare an ordinance to implement the intent and purpose of this section, which shall include penalties for violation.

Section 4. **Implementation.** The Village Manager is hereby authorized to take any and all steps necessary to implement the provisions of this Resolution, including, but not limited to, modifying the Village's employee manual or contracts to the effectuate the intent and purpose of this Resolution, and approving sanctions and penalties for violating the provisions of this Resolution.

Section 5. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of March, 2012.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY