

ORDINANCE NO. 2014 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A MOTORIZED VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLATS 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 Mashta Flats is a multi-acre sandbar in the shallow waters of Biscayne Bay located off the Village of Key Biscayne (the "Village"), which is often frequented by boaters as a party destination on the weekends and holidays; and

WHEREAS, over the last couple of years, there has been 3 deaths, two life changing permanently disabling injuries, 15 reported boating accidents totally over \$200,000 in damage, and 156 citations at the Mashta Flats; and

WHEREAS, such recent accident reports and uniform boating citations have clearly demonstrated that there is a significant threat to boating safety and the safety of the public at the Mashta Flats; and

WHEREAS, the Village, pursuant to Section 327.46, F.S., has the authority to adopt a motorized vessel exclusion zone within the Village, which limits such areas to vessels under oars or under sail; and

WHEREAS, in order to prevent future accidents and injuries from occurring at the Mashta Flats and to protect the safety of the public, the Village Council desires to create a motorized vessel exclusion zone, which limits the Mashta Flats area, as further described on Exhibit "A," within the Village's municipal boundaries to vessels under oars or under sail; 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.

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

[add map]

- ~~(43) 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. However, pursuant to Section 327.46, Florida Statutes, this Ordinance shall not take effect until the Florida Fish and Wildlife Conservation Commission has reviewed the Ordinance and determined by substantial competent evidence that the Ordinance is necessary to protect public safety.

PASSED AND ADOPTED on first reading this 27th day of May, 2014.

PASSED AND ADOPTED on second reading this ____ day of _____, 2014.

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

Exhibit A

VILLAGE OF KEY BISCAYNE





HADONNE

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

KEY BISCAIYNE PARCEL

