ORDINANCE NO. 2014-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 7, "BUSINESS REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES TO INCLUDE SECTION 7-1, "PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY VILLAGE CONTRACTORS;" AMENDING CHAPTER 19, "PARK RULES AND REGULATIONS" TO INCLUDE SECTION 19-17, "PROHIBITION ON POLYSTYRENE;" PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") declares that it is in the best interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants within the Village; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade in the environment; and

WHEREAS, expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife, thus harming and killing them; and

WHEREAS, due to the physical properties of expanded polystyrene, the EPA states "that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy;" and

WHEREAS, disposable food service articles constitute a portion of the litter in the Village's streets, parks, public places, and waterways; and

WHEREAS, the Village's goal is to replace expanded polystyrene food service articles with reusable, recyclable or compostable alternatives; and

WHEREAS, this Ordinance will preserve and enhance the environment of the Village; and

WHEREAS, the Village Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Village's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

Section 1. **Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

Section 2. **Chapter 7 of the Village Code Amended.** That the Code of Key Biscayne, Florida, is hereby amended to read as follows:

CHAPTER 7 BUSINESS REGULATIONS

~~Secs. 7-1 - 7-30. Reserved.~~

Sec. 7-1. Prohibition regarding sale or use of expanded polystyrene food service articles by Village contractors.

(a) Definitions. For purposes of this section, or as applicable by reference in other sections, the following definitions apply.

1. *Village contractor* means a contractor, vendor, lessee, concessionaire of the Village, or operator of a Village facility.

2. *Expanded polystyrene* means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

[1] Additions to this Ordinance are reflected in underline. Deletions to this Ordinance are reflected in ~~strikethrough.~~

3. *Expanded polystyrene food service article* means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of Expanded Polystyrene.

(b) Village Contractors shall not sell, use, provide food in, or offer the use of Expanded Polystyrene Food Service articles in Village facilities or on Village property. A violation of this section shall be deemed a default under the terms of the Village contract, lease, or concession agreement. This subsection shall not apply to Expanded Polystyrene Food Service Articles used for prepackaged food that have been filled and sealed prior to receipt by the Village Contractor.

(c) Any Village contract, lease, or concession agreement entered into prior to the effective date of this section shall not be subject to the requirements of this section, unless the Village Contractor voluntarily agrees thereto.

Secs. 7-2 – 7-30. Reserved.

Section 3 **Chapter 19 of the Village Code Amended.** That the Code of Key Biscayne, Florida, is hereby amended to read as follows:

CHAPTER 19 PARK RULES AND REGULATIONS

Sec. 19-1. Authority of Village of Key Biscayne Police Department officials and the Recreation Department officials.

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Sec. 19-17. Prohibition on Expanded Polystyrene.

Is shall be unlawful for any person to carry any Expanded Polystyrene (as defined in section 7-1 of the Code) product onto any beach or into any park within the Village.

Section 4. **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 5. **Inclusion in the Code**. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be 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 become effective immediately upon adoption on second reading.

PASSED on first reading this_____ day of_____, 2014.

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

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MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY