

Section 2. Village Code Amended. That the Village Code of the Village of Key Biscayne, Florida is hereby amended by amending Chapter 6, Building and Building Regulations by creating Section 6-4, "Non-Residential Trash Containers" to read as follows:

Section 6-4. Non-Residential Trash Containers

1. Disposal. All non-residential trash, garbage and debris shall be placed, disposed, and stored within fully enclosed commercial trash containers with closed lids. These containers shall be located within the property at a location approved by the Village pursuant to the process set forth in Section 3 below.
2. Trash Pickup Requirements. Non-residential trash containers, which contain the disposal of foodstuffs from any source, including, but not limited to, restaurants or grocery stores, shall be emptied on a daily basis. For all other types of non-residential trash, the required number of pickups per week shall depend on the intensity of the use and shall be set out in the plan required in Section 3 below.
3. Dumpster Management Plan. All nonresidential property owners with trash containers shall submit a Dumpster Management Plan for review and approval by the Building, Zoning, and Planning Director or designee. All Dumpster Management Plans shall provide for the location, use, and screening of nonresidential trash containers that are located on the property and shall, at a minimum, contain the following information:
 - a. A detailed and dimensioned site plan depicting the location of the nonresidential trash container(s), including whether the container(s) are visible from a public right of way and the distance from surrounding properties;
 - b. A detailed elevation drawing of the trash container(s) which demonstrates that the:
 - (i) container is completely screened from view from outside the property by opaque materials;
 - (ii) enclosure is at least as high as the container; and
 - (iii) materials and/or landscaping that will be used to screen the container(s). If fencing is used for screening purposes, such fences shall be

covered ~~coated~~ with green or black colored material ~~covering~~, and if block walls are used such walls shall be painted to match the principal building on the site; and

c. Type of trash that is proposed to disposed of within the non-residential trash container;

d. Proposed hours and days of the week for trash pickup; and

e. ~~Application fee plus the annual inspection fee for the approved nonresidential trash container as established by resolution of the Village Council; and~~

e.f. Any additional information as reasonably required by the Building, Zoning, and Planning Director or designee.

4. Change in Use. In the event there is a change of use within a nonresidential property, a revised Management Plan, which meets the requirements of Section 3 above, shall be submitted to the Village Building, Zoning, and Planning Director or designee for review and approval.

Section 3. Non-Conformity. All non-residential trash containers located within the Village as of the effective date of this Ordinance, which do not conform to the requirements of this Ordinance shall be deemed nonconforming. The owners of such nonconforming containers shall be notified by the Building, Zoning, and Planning Director or designee that within ninety (90) days from the effective date of this Ordinance a ~~Dumpster~~ Management Plan shall be submitted, in accordance with the provisions of this Ordinance, to the Village. In addition, within 180 days from the effective date of this Ordinance such nonconforming containers shall fully comply with the provisions of this Ordinance.

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 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 be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 26th day of May, 2009.

PASSED AND ADOPTED on second reading this 23rd day of June, 2009.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, MMC VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY