



# VILLAGE OF KEY BISCAYNE

## Office of the Village Manager

### MEMORANDUM

*Village Council*  
Franklin H. Caplan, *Mayor*  
Mayra P. Lindsay, *Vice Mayor*  
Michael W. Davey  
Theodore J. Holloway  
Michael E. Kelly  
Ed London  
James S. Taintor

DATE: November 12, 2013  
TO: Honorable Mayor and Members of the Village Council  
FROM: John C. Gilbert, Village Manager  
RE: Artificial Turf Ordinance: Ordinance amending the Zoning and Land Development Regulations

*Village Manager*  
John C. Gilbert

### RECOMMENDATION

It is recommended that the attached Ordinance be approved. The recommendation is based on the Building, Zoning and Planning (BZP) Director's determination (see attached BZP Director's Memorandum) that the Ordinance is consistent with the review criteria as set forth in the Zoning and Land Development Regulations.

### BACKGROUND

The Ordinance was discussed at the August 27, 2013 Council Meeting. At that time, the Village Attorney was directed to review the Council's comments and move forward with the public hearing process.

The Zoning and Land Development Regulations required an Amendment to said Regulations and approval of the Village Council. The Regulations contains criteria to evaluate the attached Ordinance. After reviewing the criteria, the BZP Director concludes the Ordinance to be consistent with the review criteria and has recommended approval.

Mr. Chad Freidman from Weiss Serota Helfman Pastoriza Cole & Boniske provided Resolution and attests to form and legal sufficiency.

**ORDINANCE NO. 2013-**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING ARTICLE IX “LANDSCAPE REGULATIONS” OF CHAPTER 30 “ZONING AND LAND DEVELOPMENT REGULATIONS” IN ORDER TO CREATE SECTION 30-242 “ARTIFICIAL TURF” TO PROVIDE FOR REGULATIONS OF THE USE OF ARTIFICIAL TURF; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the “Village”) has adopted Zoning and Land Development Regulations in order to promote the health, safety, order, convenience, comfort, and general welfare of the public, and to promote and preserve the character and ecological quality of the Village as articulated in the Village’s Comprehensive Plan; and

**WHEREAS**, the Village Council finds that, due to concerns about water consumption by turfgrass, and due to the availability of improved artificial turf products which simulate the appearance of natural turf while providing for water permeability, the use of artificial turf has become more common throughout the State of Florida and property owners within the Village have begun to install artificial turf; and

**WHEREAS**, the Village Council desires to permit the installation of artificial turf, subject to limitations on usage within front and street side yards, and subject to restrictions intended to ensure that the installation and usage of artificial turf meets minimum standards for installation, placement and ongoing maintenance; and

**WHEREAS**, the Village Council finds that it is in the public interest to authorize the installation of artificial turf within all areas of Village-owned properties within the PROS Public Recreation and Open Space Use District and the GU Government Use District, so that artificial turf may be utilized within suitable areas of Village parks and recreational areas; and

WHEREAS, the Village Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the residents of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS<sup>1</sup>:

**Section 1.** The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Section 30-242 of the Village Code Created.** That Section 30-242 “Artificial Turf” of the Code of Key Biscayne, Florida, is hereby created to read as follows:

**Sec. 30-242. Artificial turf.**

(a) Definitions. The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this section:

(1) Corner Lot. A ~~lot~~ **Lot** located at the intersection of two streets and abutting such streets on two adjacent sides.

(2) Artificial Turf. An artificial product manufactured from synthetic materials that **effectively** simulates the appearance of natural turf, grass, sod or lawn.

(b) Installation.

(1) Single Family and Two-Family Districts. Within the VR, VE, IR and PS Districts, Artificial Turf shall not be permitted to be installed within a Front Yard of any Lot, or within a Street Side Yard of a Corner Lot.

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text. Changes between first and second reading are indicated with **highlight**.

(2) Other Districts. Within all other zoning districts with the exception of the PROS Public Recreation and Open Space Use District and the GU Government Use District, Artificial Turf shall not be permitted to be installed within a Front Yard, or within a Side Yard facing a Street.

(c) Installation, maintenance and repair.

(1) All Artificial Turf shall, at a minimum, be installed according to the manufacturer's specifications.

(2) All Artificial Turf installations shall be anchored to ensure that the turf will withstand the effects of wind and other destructive impacts.

(3) All seams shall be nailed and glued, not sewn, and edges shall be trimmed to fit against all regular and irregular edges to resemble a natural look.

(4) If Artificial Turf is planned to be installed immediately adjacent to a seawall, the Artificial Turf shall be pinned or staked behind the seawall. No Artificial Turf or installation mechanism shall be attached directly to or placed on a seawall or seawall cap.

(5) Artificial Turf shall be visually level, with the grain pointing in a single direction.

(6) An appropriate solid barrier device (e.g., concrete mow strip, bender board) is required to separate Artificial Turf from soil and live vegetation.

(7) Precautions for installation around existing trees, including a proper radius, shall be provided to ensure that tree roots are not damaged with the installation of the base material and that the overall health of the tree will not be compromised.

(8) All Artificial Turf shall be maintained in a green fadeless condition and shall be maintained free of dirt, animal waste, mud, stains, weeds, debris, tears, holes, and impressions. Maintenance shall include, but not be limited to cleaning, brushing, debris removal; repairing of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and evasive roots; and all edges of the Artificial Turf shall not be loose and must be maintained with appropriate edging or stakes.

(9) All Artificial Turf must be replaced if it falls into disrepair with fading or holes or loose areas. Replacement and repairs shall be done with like materials from the same manufacturer and done so in a manner that results in a repair that blends in with the existing Artificial Turf, without any matting.

(10) All Artificial Turf shall be installed on a permeable backing in order to ensure proper drainage.

(11) All Artificial Turf shall be of the highest quality available from a list of Village-approved manufacturers, and shall be a natural green color selected from a palette of colors approved by the Village.

**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, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5.** **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 12th day of November, 2013.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MAYOR FRANKLIN H. CAPLAN

ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY



V I L L A G E   O F   K E Y   B I S C A I Y N E

Department of Building, Zoning and Planning

*Village Council*  
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DT: November 12, 2013  
TO: John C. Gilbert, Village Manager  
FR: Jud Kurlancheek, AICP, Director  
Building, Zoning, and Planning Department

*Director*  
Jud Kurlancheek, AICP  
*Chief Building Official*  
Eugenio M. Santiago, P.E., CFM

RE: Artificial Turf Ordinance: Ordinance amending the Zoning and Land Development Regulations

**APPLICATION SUMMARY**

<b>Request</b>	Amendment to the Zoning and Land Development Regulations regulating the installation of artificial grass in Single Family, Two Family, Government Use, and Recreation and Open Space Zoning Districts.
<b>Applicant</b>	The Village Council
<b>File Number</b>	AZO 13-01
<b>Recommendation</b>	Approval

**Summary of the Ordinance**

The major components of the Ordinance are as follows:

1. Prohibits the use of artificial turf in any yard that faces a street in single family and two family zoning districts;
2. Permits the installation of artificial turf in the GU Government Use and PROS Park Recreation and Open Space Districts

**Amendment to the Zoning and Land Development Review Criteria:** In order to consider an ordinance which amends the Village's Zoning and Land Development Regulations, the Village Council must find that said ordinance is consistent with the review criteria. Below is our analysis of the ordinance with the review criteria that are set forth in Section 30-71 of the Zoning and Land Development Regulations:

**Criteria 1**                      The Proposed amendment is consistent with the Comprehensive Plan.

Analysis: The Comprehensive Plan was adopted in 1994. At that time the use of artificial grass on private properties was not occurring nor was it discussed in the Village. As such, the Comprehensive Plan does not discuss this subject.

Finding: No finding

**Criteria 2** The proposed change will result in buildings that are consistent in scale and otherwise be compatible with those within 300 ft. of the site.

Analysis: The proposed change does not impact buildings. As such, this review criterion is not applicable.

Finding: No finding.

**Criteria 3** The resulting boundaries of a zoning district are logically drawn.

Analysis: The proposed change does not impact zoning district boundaries. As such, this review criterion is not applicable.

Finding: No finding.

**Criteria 4** The proposed change will enhance property values in the Village.

Analysis: A search of the internet found no conclusive evidence that property values will be enhanced or negatively affected.

Finding: Neutral

**Criteria 5** The proposed change will enhance the quality of life in the Village.

Analysis: A search of the internet found no conclusive evidence that the quality of life in the Village will be enhanced or negatively affected. There is evidence that if limerock is compacted then runoff towards the street will occur more rapidly. By preventing artificial grass in any yard facing a street, this situation is abated. If the limerock in the rear of the property is compacted, then runoff to the neighboring property may occur.

Finding: Consistent

**Criteria 6** There are substantial and compelling reasons why the proposed change is in the best interest of the Village.

Analysis: Presently there are no regulations which prohibit or regulate the use of artificial grass. The establishment of regulations that prevent artificial grass in any yard facing a street will insure that only natural grass is viewed by the public. This will result in a consistent image of yards facing streets.  
Artificial turf also provides an opportunity to place it in locations where natural grass does not normally do well. Such as under trees with dense canopies or highly trafficked areas.

Finding: Consistent

## **RECOMMENDATION**

Staff recommends approval of the Ordinance as it is consistent with the review criteria as set forth in the Zoning and Land Development Regulations.