

ORDINANCE NO. 2018-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 7, "BUSINESS REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES TO INCLUDE SECTION 7-4, "PROHIBITION ON DISTRIBUTION, SALE, OR USE OF PLASTIC STRAWS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne ("Village") is committed to environmental conscientiousness and leadership, and towards that end has previously adopted ordinances prohibiting the sale or use of polystyrene food service articles by Village contractors, special event permittees, and food service providers; and

WHEREAS, the Village finds that it is in the public interest, safety, and welfare to reduce litter and pollutants on the lands and in the waters of the Village; and

WHEREAS, discarded plastic straws threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida's coast, which include areas within the Village; and

WHEREAS, the use, sale, and distribution of plastic straws has a detrimental effect on the Village's environment; and

WHEREAS, the Village Council finds that there are reasonable, environmentally-friendly alternatives to plastic straws; and

WHEREAS, the Village seeks to further preserve and enhance the Village's environment by prohibiting the sale or use of single-use plastic straws by special event permittees and businesses located within the Village; and

WHEREAS, the Village Council wishes to amend Chapter 7 of the Village's Code of Ordinances ("Code") to create Section 7-4 to prohibit the sale, distribution, and use of plastic straws; and

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

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

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amending Chapter 7 of the Village Code. That the Code of Key Biscayne, Florida is hereby amended by adding Section 7-4 “Prohibition on Distribution, Sale, or Use of Plastic Straws,” which section shall read as follows:

Chapter 7 – Business Regulations

Article I. – In General

Section 7-4. Prohibition on Distribution, Sale, or Use of Plastic Straws.

(a) **Definitions.** For purposes of this section, the following definitions apply:

- (1) Plastic Straw means a straw provided, sold, or distributed for the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction, which is predominantly made of plastic derived from petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene, and which is intended for a single-use.
- (2) Special Event Permittee means any person or entity, and their subcontractor(s), issued a special events permit by the Village for a special event on Village property, or in a Village facility, or in the Village’s right-of-way.
- (3) Village Facility includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned, operated or managed by the Village.
- (4) Village Property includes, but is not limited to, any land, water, or air rights owned, operated or managed by the Village.

(b) **Plastic Straws Prohibited; Exceptions**

- (1) A Plastic Straw shall not be used, sold, or distributed in any commercial establishment, at any Village Facility, on Village Property, or by any Special Event Permittee.

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double-strikethrough and double underline.

(2) Exceptions.

- a. This prohibition shall not apply to pre-packaged drinks sold at commercial establishments.
- b. This prohibition shall not apply to medical or dental facilities.
- c. This prohibition shall not apply to the school district or county, state, or federal governmental entities.

(c) Enforcement; Penalties

- (1) Following adoption of this Section, the Village shall engage in public education efforts to inform commercial establishments of the provisions of this Section and to provide assistance with identifying alternatives to Plastic Straws.
- (2) Beginning January 1, 2019, the Village's Code Enforcement Department shall enforce all provisions of this Section.
- (3) Penalties for violations of the provisions of this Section shall be enforced through Chapter 2 of the Village Code.

Secs. 7-45 – 7-30. Reserved.

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. Inclusion in Code. It is the intent of the Village Council that the provisions of this ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered, and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the _____ day of _____, 2018.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2018.

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

JENNIFER MEDINA, CMC
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

VILLAGE ATTORNEY