

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING CHAPTER 5, "PROPERTY MAINTENANCE STANDARDS" OF THE VILLAGE CODE OF ORDINANCES RELATING TO SOLID WASTE, RECYCLING, AND CIVIL VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 14, 2013, the Village of Key Biscayne (the "Village") Council adopted Ordinance No. 2013-3, creating Chapter 5, "Property Maintenance Standards" of the Code of Ordinances (the "Code") in order to protect the Village's public health, safety, and welfare, as well as the Village's aesthetics; and

WHEREAS, Section 5-3 of the Code regulates, among other things, the maintenance and appearance of solid waste and recycling containers; and

WHEREAS, the Village Council desires to amend Chapter 5 of the Village Code to provide additional standards for placement of bulky waste, solid waste, and recycling in the public-right-of-way and storage of solid waste and recycling containers before and after collection in order to create a more consistent aesthetic throughout the Village; and

WHEREAS, the Village Council finds that adoption of this Ordinance is in the best interest of the Village's residents and will promote the public health, safety, and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, 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 5 of the Village Code.** That Chapter 5, "Property Maintenance Standards," of the Code of Key Biscayne, Florida is hereby amended to read as follows:

Chapter 5 - PROPERTY MAINTENANCE STANDARDS

Sec. 5-1. - Applicability.

The provisions of this Chapter shall apply to all private properties located within the Village.

Sec. 5-2. - Definitions.

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.

In construing the provisions of this Chapter, where the context will permit and no definition is provided herein, words and phrases used in this Chapter that are defined in other parts of the Code, including but not limited to the Florida Building Code, but are not defined in this Chapter, shall have those meanings when used in this Chapter. The following words and phrases when used in this Chapter shall have the following meanings:

Bulky Waste shall mean less than one (1) cubic yard of construction and demolition debris, large discarded items or large accumulations of trash. Bulky Waste shall include, without limitation, appliances, furniture, yard trash, crates, corrugated cardboard, and other similar items. Bulky Waste shall not include construction materials, concrete, rocks, soil, paint, hazardous materials, or other Solid Waste requiring special handling.

Excessive Growth shall mean:

- (1) The growth of vegetation, including, but not limited to, grass, weeds, bushes, hedges, undergrowth, trees, or roots, that is detrimental to the public health, safety, and welfare by creating a public nuisance, obstacle or dangerous condition in the public way;
- (2) The growth of vegetation that generally detracts from the appearance of the neighborhood for lack of landscape maintenance; or
- (3) The growth of grass, weeds, or undergrowth that exceeds the height of 6 inches from the ground.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, including, but not limited to packaging materials.

Infestation shall mean the presence of any insects, rodents, vermin, or other pests.

Maintenance or ~~e~~Corrective ~~a~~Action shall mean the action required to comply with the provisions of this Article including, but not limited to maintaining, cleaning, clearing, mowing, cutting, trimming, watering, irrigating, painting, or repairing, a lot or structure, as applicable, and removing and legally disposing of all associated solid waste.

Recyclable Material shall mean any material which is capable of being recycled and which, if not recycled, would be processed and disposed of as Solid Waste. The term "recyclable material" shall include green glass, brown glass and clear glass; aluminum and steel cans and scrap metal; plastic containers, mixed paper, newspaper, corrugated cardboard, office paper, and phonebooks. Any Recyclable Material mixed with Solid Waste shall be considered to be Solid Waste.

Recycling Container shall mean a receptacle used for Recyclable Material.

Responsible Party means the current owner of the property in addition to any other party who has possession of the property, or any utility company having possession of the property or portion thereof, or any contractor working for the owner or person in possession of the property or any successor owners, agents, or parties in possession of the property.

Solid ~~w~~Waste shall mean Garbage, litter, junk, rubbish, trash, hazardous waste, construction and demolition debris, industrial waste, or other discarded materials, including material or containers from domestic, commercial or agricultural operations. The term shall include all combustible and noncombustible waste materials. The term shall include residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood,

excelsior, rubber, leather, tree branches, ~~y~~Yard trimmings Trash/Waste or other botanical waste, tin cans, metal, mineral matter, glass and crockery. The term shall also include inoperable or discarded personal property, including, but not limited to, furniture, clothing, large and small appliances, printed material, vehicles, vessels, or any other items that give the appearance that the property is abandoned or is not being maintained.

Yard Trash/Waste shall mean vegetative matter resulting from yard and landscaping maintenance, including materials such as tree and shrub trimmings, grass clippings, palm fronds, and small tree branches not exceeding four feet in length and four inches in diameter. Yard waste does not include matter resulting from land clearing operations.

Sec. 5-3. - Standards for maintenance and appearance of property generally.

* * *

- (d) Unless otherwise provided in this Code, the Responsible Party shall legally dispose of all Solid Waste and Recyclable Material in a container and shall not deposit, store, maintain or relocate such ~~s~~Solid ~~w~~Waste or Recyclable Material to the public right-of-way ~~other than 24 hours prior to earlier than 5:00 p.m. on the day before~~ 24 hours before an authorized scheduled pick up collection ~~or later than 7:00 a.m. on the scheduled collection day,~~ and in the case of Bulky Waste no earlier than ~~4872~~ 48 hours before an authorized scheduled collection. Solid Waste Containers, Recycling Containers, and Bulky Waste shall be placed on the public right-of-way immediately adjacent to the Responsible Party's property for collection. Solid Waste and Recycling Containers shall be removed from the public right-of-way on the day of collection and stored on private property. Where the Responsible Party chooses sideyard or backyard pickup by the Village's contractor, the Solid Waste and Recycling Containers shall be stored together in a location that is readily accessible to the Village's contractor. Solid Waste shall not be relocated to any lot other than a legal disposal site. All Solid Waste and Recycling eContainers, including, but not limited to Garbage cans and dumpsters, shall have a neat and orderly appearance. Solid Waste and Recycling Containers shall be screened from view from the public right-of-way by walls, fences, or landscaping. Solid Waste and Recycling Containers shall be deemed to be screened from view if placed behind a wall or fence. Alternatively, Solid Waste and Recycling Containers may be stored in a location that is not visible from the public right-of-way, including, but not limited to, the rear of a carport or an enclosed garage. The provisions of this subsection shall not apply in commercial and multi-unit residential areas where the Village's Solid Waste contractor has assigned a location for Solid Waste and Recycling containers. The Village Manager shall have the power to establish the frequency, quantity, and type of collection service to be rendered to all areas where Solid Waste, Recycling, and Bulky Waste collection services are provided, and to promulgate rules and regulations not inconsistent herewith.

* * *

Sec. 5-5. - Failure to comply; Penalties.

- a) In addition to any other remedies available by law, the Village may issue a civil violation notice punishable by civil penalty pursuant to Article III of Chapter 2 of this Code, ~~which~~

~~allows the Responsible Party ten calendar days to perform Maintenance or Corrective Action or to appeal. To the extent the Maintenance or Corrective Action cannot reasonably be completed within this time frame, the Village Manager may grant additional time to comply.~~

- b) Notwithstanding the provisions of subsection a) or other provisions of this Code, the Village may provide a courtesy warning to the Responsible Party for a violation of the provisions of this Chapter.

* * *

Section 3. 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 4. Codification. 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 Village's Code of Ordinances, and 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 5. Conflicts. That 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. That this Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the 30th day of June, 2020.

PASSED AND ADOPTED on second reading on the 25th day of August, 2020.

ATTEST:

Joelyn B Koch
JOCELYN B. KOCH
VILLAGE CLERK



Michael W. Davey
MICHAEL W. DAVEY
MAYOR

APPROVED AS TO FORM AND LEGALITY:



WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

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STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

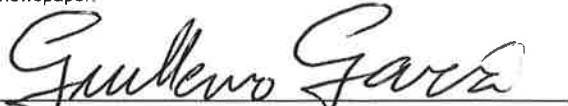
Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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READING - AUG. 25, 2020

in the XXXX Court,
was published in said newspaper in the issues of

08/13/2020

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

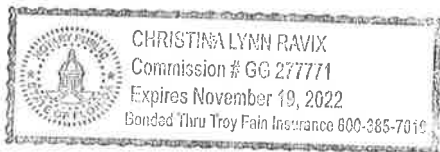


Sworn to and subscribed before me this
13 day of AUGUST, A.D. 2020



(SEAL)

GUILLERMO GARCIA personally known to me



VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, August 25, 2020 at 6:00 p.m., in the Virtual Council Chamber, Call (305)365-7569, ZOOM Meeting ID: 231 627 8415.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 5, "PROPERTY MAINTENANCE STANDARDS" OF THE VILLAGE CODE OF ORDINANCES RELATING TO SOLID WASTE, RECYCLING, AND CIVIL VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Jocelyn B. Koch
Village Clerk
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