

ORDINANCE NO. 2024-0_____

**AN EMERGENCY ORDINANCE OF THE VILLAGE OF
KEY BISCAIYNE, FLORIDA, RE-ENACTING EMERGENCY
ORDINANCE 2024-06 PROHIBITING ELECTRIC
BICYCLES, MOTORIZED SCOOTERS, AND OTHER
MOTORIZED MOBILITY DEVICES; PROVIDING FOR
ENFORCEMENT; PROVIDING FOR IMPLEMENTATION;
PROVIDING FOR CONFLICTS; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, on February 16, 2024, the Village Council adopted Emergency Ordinance No. 2024-06 finding that, pursuant to Section 4.04 of the Village Charter, a public emergency exists affecting life, health, and property within the Village regarding the operation of Electric Bicycles, Motorized Scooters, and Other Motorized Mobility Devices (Collectively, the “Motorized Devices”) on all streets and sidewalks under the Village’s jurisdiction; and

WHEREAS, during this public emergency, the Village has continued to work tirelessly with State and Miami-Dade County (the “County”) representatives to change the laws of the State and County Code of Ordinances to allow the Village to adopt and enforce local laws to comprehensively address the Motorized Devices within the Village; and

WHEREAS, unfortunately during the last week of the Legislative Session, the Florida Legislature failed to pass House Bill 7049, which would have allowed the Village to further regulate the operators of the Motorized Devices; and

WHEREAS, on March 19, 2024, the Board of County Commissioners passed on first reading an ordinance, which will allow the Village to regulate the Motorized Devices on Crandon Boulevard; and

WHEREAS, the County ordinance is expected to be heard on a second and final reading in May; and

WHEREAS, pursuant to Section 4.04 of the Village Charter, the Emergency Ordinance shall automatically be repealed as of the sixty-first (61st) day following its effective date; and

WHEREAS, the Village Council desires to re-enact the Emergency Ordinance to afford the Village an opportunity to prepare legislation regarding the Motorized Devices now that it is clear that the State law will not change this Legislative Session and the County will consider adoption of the County ordinance in May; and

WHEREAS, as such, the Village Council finds its necessary to re-enact the Emergency Ordinance pursuant to Section 4.04 of the Village Charter and Section 166.041, F.S., and to exercise its authority pursuant to the Florida Constitution, Section 166.021, F.S, Section 316.008, F.S., and the Village Charter to prohibit the Motorized Devices on all streets and sidewalks under the Village's jurisdiction; and

WHEREAS, the Village Council finds that adoption of this emergency ordinance is in the best interest of the life, safety and welfare of the Village and its residents.

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

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

Section 2. **Emergency Finding.** The Village Council hereby finds, pursuant to Section 4.04 of the Village Charter and the recitals incorporated in the Emergency Ordinance and herein, that a public emergency continues to exist affecting life, health, and property within the Village regarding the operation of the Motorized Devices on all streets and sidewalks under the Village's jurisdiction.

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.

Section 3. **Prohibition of Electric Bicycles.** The operation of Electric Bicycles are prohibited on all streets and sidewalks under the Village’s jurisdiction. Crandon Boulevard, including sidewalks, is under the jurisdiction of Miami-Dade County. As such, Electric Bicycles may be permitted on Crandon Boulevard, including sidewalks, in accordance with State and Miami-Dade County rules and regulations. For purposes of this emergency ordinance, Electric Bicycles are defined as provided in Section 316.003(23), F.S. as follows:

ELECTRIC BICYCLE. A bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- (a) “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- (b) “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- (c) “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.

Section 4. **Prohibition of Motorized Scooters.** The operation of Motorized Scooters are prohibited on all streets and sidewalks under the Village’s jurisdiction. Crandon Boulevard, including sidewalks, is under the jurisdiction of Miami-Dade County. As such, Motorized Scooters may be permitted on Crandon Boulevard, including sidewalks, in accordance with State

and Miami-Dade County rules and regulations. For purposes of this emergency ordinance, Motorized Scooters are defined as provided in Section 316.003(48), F.S. as follows:

MOTORIZED SCOOTER. Any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground. The term does not include an electric bicycle.

Section 5. Prohibition of Other Motorized Mobility Devices. The operation of Other Motorized Mobility Devices are prohibited on all streets and sidewalks under the Village's jurisdiction. Crandon Boulevard, including sidewalks, is under the jurisdiction of Miami-Dade County. As such, other Motorized Mobility Devices may be permitted on Crandon Boulevard, including sidewalks, in accordance with State and Miami-Dade County rules and regulations. For purposes of this emergency ordinance, Other Motorized Mobility Devices shall be defined as follows:

OTHER MOTORIZED MOBILITY DEVICES. Any personal device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on one or more wheels including, but not limited to, powered boards, powered skateboards, powered skates, powered hoverboards, or other similar powered personal mobility devices. This definition shall not include golf carts.

Section 6. Disability Mobility Vehicles or Devices. The provisions of this emergency ordinance do not apply to a person with a disability who uses a motorized wheelchair or other motorized mobility vehicle or device.

Section 7. **Enforcement.** Following adoption of this emergency ordinance, the Village shall engage in public education efforts to inform the public of the provisions of this ordinance. The Village Police shall enforce all provisions in this emergency ordinance. Penalties for violations of the provisions of this emergency ordinance shall be enforced through Chapter 2 of the Village Code. Violations of the provisions of this emergency ordinance shall be on a per occurrence basis and subject to the following penalties:

(1) First Violation: \$250.00.

(2) Second and Subsequent Violations: \$500.00.

Section 8. **Implementation.** That the Village Manager is hereby authorized to take any and all action necessary to implement the purpose of this emergency ordinance.

Section 9. **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 10. **Severability.** That the provisions of this emergency ordinance are declared to be severable and if any section, sentence, clause or phrase of this emergency 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 emergency ordinance but they shall remain in effect, it being the legislative intent that this emergency ordinance shall stand notwithstanding the invalidity of any part.

Section 11. **Effective Date.** That this emergency ordinance shall become effective April 16, 2024. However, pursuant to Section 4.04 of the Village Charter, it shall be automatically repealed as of the sixty-first (61st) day following the effective date.

PASSED AND ADOPTED as the emergency ordinance on the _____ day of _____, 2024.

JOE I. RASCO
MAYOR

ATTEST:

JOCELYN B. KOCH
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

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