

ORDINANCE NO. 2024-18

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 21-37 OF THE VILLAGE CODE OF ORDINANCES TO REQUIRE CONSTRUCTION BOND FOR WORK IN THE PUBLIC RIGHTS-OF-WAY; CREATING SECTION 21-38 ENTITLED “RESTORATION OF PUBLIC RIGHTS-OF-WAY” REGARDING THE RESTORATION OF PUBLIC RIGHTS-OF-WAY RELATING TO DEVELOPMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the “Village”) has a substantial and significant public interest in maintaining and protecting the Public Rights-of-Way; and

WHEREAS, the Public Rights-of-Way are essential for the travel of persons and the transport of goods throughout the Village; and

WHEREAS, in order to minimize impacts of developments or work in the public rights-of-way, minimize costs to Village taxpayers, and reasonably balance the potential inconvenience to and negative effects upon the public, the Village desires to amend the Village Code to require a construction bond for impacts to the Public Rights-of-Way; and

WHEREAS, the Village Council finds that adoption of this Ordinance is in the best interest 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.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Section 21-37 of the Village Code.** That Section 21-37 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

ARTICLE IV. – CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY

Sec. 21-37. Permit required for Work in Public Rights-of-Way within the Village.

(d) *Restoration of Rights-of-Way after completion of work.* ~~The permittee shall notify the Village~~
Upon completion of the Work, the permittee shall restore, repair, and return the Public

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.

Rights-of-Way to original or better condition at permittees sole cost and expense. Prior to the issuance of any permit for Work, a construction bond shall be required of the owner or contractor, in a form acceptable to the Village Attorney and in an amount sufficient to cover the costs of such repair and restoration work as determined by the Village Manager or designee, as a guarantee that all Village property, public rights-of-way and easement areas, impacted or damaged by or in connection with construction activity (including but not limited to damage caused by the owner or any contractor, materials suppliers or subcontractors) will be repaired and restored to its original condition. To guarantee the Work, the construction bond shall be maintained until the Work is completed and for a period of one year, unless waived by the Village Manager. Permittee shall notify the Village in writing when it believes the construction has been completed. The Village Manager or designee, at his/her sole discretion, may require additional security or waive the requirement of such bond.

Section 3. Creating Section 21-38 of the Village Code. That the Code of Key Biscayne, Florida, is hereby amended by adding a section to be numbered 21-38, which Section 21-38 reads as follows:

Sec. 21-38. Restoration of Public Rights-of-Way.

Any proposed development that impacts the Public Rights-of-Way, including the drainage system, shall be required to restore the Public Rights-of-Way upon completion of the development, as determined by the Village Manager, in accordance with Section 21-37(d).

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. 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 6. 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 7. Effective Date. That this Ordinance shall become effective immediately upon final adoption on second reading.

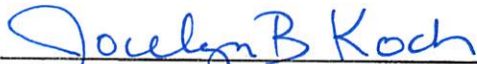
PASSED on first reading on the 27th day of August, 2024.

PASSED AND ADOPTED on second reading on the 15th day of October, 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

