

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESSES" BY AMENDING ARTICLE VI ENTITLED "MOBILE VENDORS", DIVISION 2 ENTITLED "LICENSE", SECTION 18-316 ENTITLED "REQUIRED"; AND BY AMENDING SECTION 18-325 ENTITLED "TRANSFERABILITY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West finds that the mobile vendor section of the code of ordinances was intended to be amended on or about October 1, 1996 thereby allowing for mobile vendor licensees to employ and utilize employees to operate their businesses; and

WHEREAS, the City Commission for the City of Key West finds that the 1996 revision to the code of ordinances for mobile vendors was still ambiguous enough to be interpreted to prohibit anyone except the license holder from operating a mobile vendor business; and

WHEREAS, the City Commission for the City of Key West desires to make it unambiguous that employees are permitted to operate mobile vendor business under the code of ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Section 18-316 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-316. - Required.

(a) No ~~person~~ licensee or employee shall offer for business sale any goods or services in the city except from a business duly licensed pursuant to the applicable sections of this Code or unless the ~~person~~ licensee or employee holds a valid mobile vendor's license and fully conforms to the terms of this article.

(b) No ~~person~~ licensee or employee shall conduct any business sale or offer to conduct any business sale from any public road, other public thoroughfare, sidewalk, parking lot, or any public property whatsoever, except a ~~person~~ licensee or employee on a public road holding a valid mobile vendor's license and fully conforming to the terms of this article.

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Section 2: That Section 18-325 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-325. - Transferability.

(a) *Generally.* Except as provided in subsections (b), (c) and (d) of this section, the mobile vendor's license is nontransferable, and shall be used only by the ~~person~~ Licensee in whose name it is issued, or their employee. Exceptions to non-transferability may be made upon application to the city manager in accordance with this section.

(b) *Temporary transfer for medical reasons.* Documentation of medical necessity shall be provided to the city manager upon presentation of a physician's certificate that the mobile vendor's license holder is unable to function as a mobile vendor. Prior to commencement of the temporary transfer, the substituting party shall provide the information and payments required by [section 18-318](#) (a) (1) through (8) to the city manager. In no event shall a temporary transfer be allowed more than once, for a period of up to 90 consecutive days, within any one licensing year. The substituting party shall comply with all sections of this article and shall pay any renewal fees which become due during the temporary transfer period.

(c) *Transfer to surviving spouse or registered domestic partner.*

Upon the death of the holder of an active valid mobile vendor's license, the mobile vendor's license may be transferred to the surviving spouse or registered domestic partner not holding a separate mobile vendor's license. Intent to so transfer must have been documented by the mobile vendor's license holder while still living by means of a will, trust document, or other statement of intent to transfer meeting all statutory requirements for validity at the time of execution. In order to obtain transfer, the surviving spouse or registered domestic partner must make a written request to the city manager within 45 days of the death of the mobile vendor's license holder, accompanied by a copy of the death certificate and a copy of the will, trust document, or other statement of intent referred to in this subsection. Prior to issuance of the transfer, the surviving spouse or registered domestic partner shall provide the information and payments required by sections [18-318](#)(a)(1) through (8) to the city manager. The surviving spouse or registered domestic partner shall comply with all sections of this article.

(d) *Hardship.* Upon receipt of a mobile vendor's license holder's sworn, written statement of hardship addressed to the city manager and upon the advice of the city manager, the city commission may approve the transfer of a mobile vendor's license.

To obtain approval of a transfer under this subsection, the mobile vendor's license holder must demonstrate that special conditions or circumstances exist beyond the mobile vendor's license holder's control that cause a personal hardship to the license holder. The city commission may consider the following factors, among others, in its determination:

(1) The length of time the mobile vendor's license holder has held his mobile vendor's license;

(2) The substantiality of investment the mobile vendor's license holder has made in his business;

(3) The nature of the personal hardship, whether it concerns age, illness, death, family affairs or financial setback;

(4) Whether the mobile vendor's license holder obtained the mobile vendor's license prior to December 15, 1986, the date at which transferring the mobile vendor's license became restricted; and

(5) Whether the proposed transfer will be detrimental to the public welfare.

A transfer under this subsection shall not be approved if it results in or contributes to a person holding more than one mobile vendor's license, nor may a transfer be approved primarily for

the benefit of or based on the hardship of the transferee. Upon approval of a hardship transfer, the transferor shall pay to the city the amount of \$100.00 representing a hardship transfer processing fee. This fee shall be in addition to all fees required under [section 18-318](#). The city commission's grant of a hardship transfer shall not constitute precedent for a later application for transfer.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonably necessary to achieve the lawful purposes of this ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held
this _____ day of _____, 2019.

Read and passed on final reading at a regular meeting held
this _____ day of _____, 2019.

Authenticated by the presiding officer and Clerk of the
Commission on _____ day of _____, 2019.

Filed with the Clerk _____, 2019.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK