

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 "BUSINESSES", ARTICLE II "ALCOHOLIC BEVERAGES", DIVISION 2 "ENTERTAINMENT LICENSE", TO AMEND SECTION 18-56 REGARDING DEFINITIONS; BY AMENDING SECTION 18-59 TO UPDATE DEFINITIONS; BY AMENDING SECTION 18-60 TO INCREASE THE NUMBER OF VIOLATIONS BEFORE AN ENTERTAINMENT LICENSE MAY BE REVOKED OR SUSPENDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission finds that in reviewing its sound control ordinance certain revisions are necessary to its entertainment license provisions to provide for the health, safety and welfare of its citizens.

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

Section 1: That Section 18-56 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 18-56. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Soundproof means any physical arrangement or configuration of a building that is sufficient to prevent the sound of live

entertainment or amplified sound from constituting unreasonable ~~noise or disturbing~~ excessive noise, as provided in division 3 of article II of chapter 6 and article IV of chapter 26.

Section 2: That Section 18-59 of the Code of Ordinances is hereby amended as follows\*:

Sec. 18-59. Mediation regarding complaints of noise.  
The city manager shall conduct a mediation between the holder of an entertainment license and any person complaining of noise at such establishment if:

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(2) The establishment is the subject of chronic noise complaints within any 30-day period. For the purpose of this subsection, the term "chronic" shall mean that the city manager initially has received a complaint of unreasonable excessive noise ~~or disturbing noise~~ at a location from more than one person, and similar noise complaints continue after an investigating officer has issued either a citation or a warning. Submission to mediation shall be a requirement of the holding of an entertainment license. Upon issuance of the entertainment license, the licensing division shall provide the holder with a written notice of its responsibilities under this subsection. The city manager shall provide notice and opportunity to be

heard by the parties at mediation, and shall issue final recommendations. The mediation is nonbinding.

Section 3: That Section 18-60 of the Code of Ordinances is hereby amended as follows\*:

Sec. 18-60. Revocation or suspension.

(a) If a license holder is found in violation or pleads no contest to a violation of division 3 of article II of chapter 6 and article IV of chapter 26 ~~two~~ three (3) times within any annual period and the noise violations are music related, the city manager may determine whether to revoke or suspend for a period of time the license holder's entertainment license. Before reaching a decision, the city manager shall:

(1) Afford the license holder notice of the hearing and a reasonable opportunity to be heard;

(2) Consider the license holder's record of noise violations;

(3) Consider the seriousness and recurrence of the violation;

(4) Consider the degree of disturbance on persons or neighboring property owners; and

(5) Evaluate the license holder's record in mediation under section 18-59

(b) The city manager's decision to revoke or suspend an entertainment license shall be issued in writing and shall inform the license holder of the right to appeal the decision to the city commission. A written appeal must be filed with the city clerk within ten days of the receipt of the decision. The City Commission shall have the ability upon appeal to reverse or affirm, wholly or partly, or modify the determination made by the City Manager and may make any necessary further decisions respecting the subject of the appeal and, to that end, shall have all the powers as the City Manager respecting such matter pursuant to subsection (a) above.

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\*(Coding: Added language is underlined; ~~deleted language is struck through.~~)\*

Section 4: 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 reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: 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 6: 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 \_\_\_\_\_, 2014.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Filed with the Clerk \_\_\_\_\_, 2014.

Mayor Craig Cates \_\_\_\_\_

Vice Mayor Mark Rossi \_\_\_\_\_

Commissioner Teri Johnston \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

Commissioner Billy Wardlow \_\_\_\_\_

Commissioner Jimmy Weekley \_\_\_\_\_

Commissioner Tony Yaniz \_\_\_\_\_

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CRAIG CATES, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK