

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESSES," BY AMENDING "ARTICLE XIII - COSMETICS," SECTION 18-701, TO PROVIDE DEFINITIONS; AMENDING SECTION 18-704 TO PROVIDE FOR NOTICE FOR UNLICENSED COSMETOLOGY AND SPECIALTY SALONS; AMENDING SECTION 18-705 TO PROVIDE ADDITIONAL REQUIREMENTS; AND AMENDING 18-706 TO CLARIFY PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West has received testimony regarding the current operation of cosmetic retailers in the Historic District and finds that it is necessary to clarify regulations that protect consumers at cosmetic retail establishments in the Historic District; and

WHEREAS, amendments to section 18-701, section 18-704, section 18-705 and 18-706 of the Code of Ordinances will promote the welfare of the citizens and visitors of the City of Key West.

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

Section 1: That Section 18-701 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 18-701. - Definitions.**

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

\* \* \* \* \*

"Cosmetologist" is a person who is licensed by the State of Florida to perform the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair braiding, hair coloring, permanent waving, and hair relaxing, for compensation. A cosmetologist may also perform non-invasive hair removals, including wax treatments but not including electrolysis as that term is defined in Chapter 478, F.S., manicures, pedicures, and skin care services.

"Cosmetology" means the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair

removal, including wax treatments, manicures, pedicures, and skin care services.

"Cosmetic products" means any external preparation which is intended to cleanse, tone, color or beautify the face or neck, including but not limited to skin cleansers, astringents, skin fresheners, lipstick, eyeliner, eye shadow, foundation, rouge or cheek color, mascara, face powder or corrective stick, and other similar products so intended.

"Compensation" is defined as the payment of money or its equivalent, the receipt or delivery of property, or the performance of a service, or the receipt or delivery of anything of value in exchange for cosmetology services.

"Facials" means the massaging or treating of the face, neck or scalp with or without the use of mechanical devices using oils, creams, lotions or other cosmetic products which are used to cleanse and condition the skin, to prevent or correct problems or conditions of the face, neck, and scalp and to color and beautify the face, neck and scalp or enhance their features. Facials shall be performed only by individuals licensed pursuant to Sections 477.019 and 477.0201, F.S., and performed in schools licensed pursuant to Chapter 1005, F.S., or salons licensed pursuant to Section 477.025, F.S.

Section 2: That Section 18-704 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 18-704. - Requirements for obtaining permit.**

\* \* \* \* \*

(b) In addition the applicant shall:

\* \* \* \* \*

(3) Unless licensed by the State of Florida a cosmetology or specialty salon, a cosmetic retailer shall display a notice in all capital letters which reads "WE ARE NOT A STATE OF FLORIDA LICENSED COSMETOLOGY OR SPECIALTY SALON" in letters not less than five inches in height, on or above the entrance of the business or in a window adjacent to the entrance of the business.

Section 3: That Section 18-705 of the Code of Ordinances is hereby amended as follows\*:

**18-705. Requirements of permit holder.**

Any permit holder must:

\* \* \* \* \*

(4) Not engage in the practice of cosmetology or provide facials without the required state license.

\* \* \* \* \*

(7) Unless licensed by the State to provide facials or as a cosmetologist, shall not make physical contact with a customer in any form.

Section 4: That Section 18-706 of the Code of Ordinances is hereby amended as follows:

**Sec. 18-706. - Violations.**

A violation of this article is subject to enforcement either pursuant to section 1-15, which provides for a fine of not more than \$500.00, or a term of imprisonment not to exceed 60 days or both a fine and term of imprisonment, or pursuant to the code enforcement authority of the special master in sections 2-633 and 2-634. Any violation of this article shall also be considered an unfair or deceptive act or practice as contemplated by F.S. §501.204. All remedies provided by Florida's Deceptive and Unfair Trade Practices Act (F.S. §501.201, et seq.) shall be available for any violation of this article. Any such remedy shall be cumulative and in addition to all other remedies provided herein or available at law or equity.

Section 5: 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 6: 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 7: 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