

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES ENTITLED "BUSINESSES", ARTICLE X ENTITLED "PEDDLERS" BY AMENDING SECTION 18-541 ENTITLED "DEFINITIONS" AMENDING THE DEFINITION OF A PEDDLER; BY CREATING SEC. 18-547 "LOCATIONS" CREATING PROHIBITED LOCATIONS; BY AMENDING DIVISION 2 ENTITLED "PERMIT", SEC. 18-576 ENTITLED "REQUIRED" BY CLARIFYING TO WHOM A PERMIT CAN BE ISSUED AND MAKING PERMITS NON-TRANSFERRABLE; BY AMENDING SEC. 18-578 ENTITLED "APPLICATION" BY REQUIRING ACCURATE IDENTIFICATION, CRIMINAL BACKGROUND INFORMATION, AND CONTACT INFORMATION AND LENGTH OF TIME THAT THE PERMIT HOLDER WILL DO BUSINESS; BY AMENDING SEC. 18-579 ENTITLED "IDENTIFICATION" BY CLARIFYING REQUIREMENTS OF PHOTO IDENTIFICATION, BY ELIMINATING SEC. 18-580 ENTITLED "APPLICATION FEE"; BY ELIMINATING SEC. 18-582 ENTITLED "FINGERPRINTS"; BY AMENDING SEC. 18-583 ENTITLED "FEE" BY CLARIFYING THE APPLICATION AND RENEWAL FEES AND ANNUAL PERIODS; BY AMENDING SEC. 18-584 ENTITLED "PERMIT DURATION" BY CLARIFYING PENALTIES FOR LACK OF RENEWAL; BY AMENDING SEC. 18-585 ENTITLED "DISPLAY" BY REQUIRING ALL PERMITS TO BE DISPLAYED ON THE PEDDLER'S PERSON AND PROVIDING FOR PENALTIES FOR ALTERED PERMITS; BY AMENDING SEC. 18-586 ENTITLED "REVOCATION" BY PROVIDING FOR A HEARING PROCESS BEFORE THE CITY MANAGER PRIOR TO THE REVOCATION OF A PEDDLER'S PERMIT; 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 there is a need to update its ordinances concerning

peddlers in order to provide for regulated locations, and due process for violations, and;

WHEREAS, The City Commission for The City of Key West finds that there is a need to bring the peddler's permit process and renewals in line with the renewal and application period for all other permits in the city.

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

Section 1: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-541. - 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:

Peddler means any person, without any permanent or fixed place of business, carrying or transporting merchandise and offering it for sale ~~or making sales~~ door to door which may include exhibiting samples, taking orders on future sales and deliveries, or operating from ; ~~temporarily occupying premises or~~ a motor vehicle on private

*(Coding: Added language is underlined; deleted language is

~~struck through~~. Added language for second reading is double-underlined; deleted language is ~~double struck through~~)
property to exhibit samples, take orders for future delivery or offer or make sales of merchandise; or ~~using~~ contacting potential customers via the telephone or the internet in the city to solicit sales or take orders ~~or offer or make sales~~ for future delivery. For the purposes of this article, the meaning of the word "peddler" includes the terms "canvasser," "solicitor," and "itinerant merchant."

Section 2: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-547. - Locations.

The following locations in the Historic District shall not be used by peddlers under this ordinance:

- a) Mallory Square.
- b) Wall Street.
- c) In front of or abutting a federal, state, or local government building.
- d) In front of or abutting a church, synagogue, or other place of worship.
- e) In front of or abutting a theatre.
- f) The Key West Bight Harborwalk.
- g) The Truman Waterfront Park.

- h) The area commonly known as the Southernmost Point, extending from the center of the intersection of South and Duval Streets westward to the Southernmost Point monument, then continuing northward to the center of the intersection of United and Whitehead Streets.
- i) Whitehead Street from Front Street to Eaton Street.
- j) The area commonly known as Clinton Square including those portions of Whitehead, Greene and Front Streets.
- k) Edward B. Knight Pier.

Section 3: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

DIVISION 2. - PERMIT

Sec. 18-576. - Required.

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so. Each peddler permit shall be issued in the name of the individual applicant only, and shall not be issued in the name of any corporation, partnership, or business. A peddler permit is non-transferable.

A valid peddler permit issued by the City of Key West shall be construed as satisfying, for the named holder thereof and for the uses provided in this article, the business tax

receipt requirements of Chapter 66, Article IV, City of Key West Municipal Code.

**Section 4: Chapter 18, Code of Ordinances for
The City of Key West, is amended as follows:**

Sec. 18-578. - Application.

An applicant for a permit required under this ordinance shall file with the city ~~clerk~~ Licensing Division a sworn application ~~in writing, in duplicate,~~ on a form to be furnished by the city, which shall ~~give~~ include the following information:

- (1) The name ~~and a description~~ of the applicant.
- (2) The permanent home address and full local home address of the applicant.
- (3) A physical, accurate mailing address, phone number, and email address for the applicant.
- (4) ~~(3)~~ A brief description of the nature of the business and the goods to be sold.
- (5) ~~(4)~~ If acting as an employee of a business ~~employed,~~ the name and address of the employer, ~~together with credentials establishing the exact relationship.~~
- ~~(5) The length of time for which the right to do business is desired.~~

~~(6) The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery.~~

(6)~~(7)~~ A photograph of the applicant, taken within 60 days immediately prior to the date of filing the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(7)~~(8)~~ ~~A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.~~ Applicants shall provide a NICS FBI criminal background check that has been performed within a month of making application. A conviction for a felony or misdemeanor shall disqualify an applicant from receiving a permit.

(8)~~(7)~~ Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery.

(9)~~(8)~~ State sales tax registration number.

~~(10) (9)~~ Such other relevant information as may be deemed appropriate by the Licensing Division ~~required by the investigation of the applicant.~~

Section 5: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-579. - Identification.

At the time of filing his/her application for a permit required by this division, the applicant shall present his/her driver's license or other government-issued picture identification, ~~if he has one.~~

Section 6: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

~~Sec. 18-580. - Application fee Term.~~

~~The applicant for a peddler's permit shall pay an application fee of \$25.00.~~

Section 7: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

~~Sec. 18-581. - Fingerprints.~~

~~At the time of making application for a permit required by this division, the applicant shall submit to fingerprinting by the chief of police.~~

**Section 8: Chapter 18, Code of Ordinances for
The City of Key West, is amended as follows:**

Sec. 18-5820. - Bond.

(a) Every applicant for a peddler permit ~~required by this division who is not a city resident or who is a city resident and represents a firm whose principal place of business is located outside the state~~ shall file with the city manager or designee a surety bond running to the city in the amount of \$1,000.00, with surety acceptable to and approved by the city manager or designee. The bond shall be conditioned that the applicant shall comply fully with all the applicable sections of this Code, the city ordinances and state law regulating and concerning the business of peddling, and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler. The bond shall further guarantee to any citizen of the city doing business with such peddler that the property purchased will be delivered

according to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.

(b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the fictitious name act of the state, such ~~corporation or fictitious name~~ business may furnish one bond in the amount of \$1,000.00 for any and all of its agents, employees, canvassers or solicitors.

**Section 9: Chapter 18, Code of Ordinances for
The City of Key West, is amended as follows:**

Sec. 18-5831. - Fee.

~~Before any permit shall be issued under the provisions of this division the applicant therefor shall pay a fee in the amount of \$200.00 to the city at its licensing division.~~

An annual permit fee in the amount of \$200.00 shall be due at the time of application. This fee shall be prorated for peddler permits issued after October 1 according to a fraction rounded up to the number of months remaining in the fiscal year.

Any person who engages in peddling without first obtaining a peddler permit is subject to a penalty of 25% of the annual permit fee, in addition to any other penalty provided by law

or ordinance. Each peddler permit shall be issued on an annual basis coinciding with the city's fiscal year, October 1 through September 30.

Any peddler permits in existence as of the revision date of this ordinance which currently do not coincide with the city's fiscal year will be required to pay a pro-rated renewal fee prior to expiration to extend the term of the existing permit to September 30, 2019.

Section 10: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-5842. - ~~Permit duration.~~ Renewal.

~~Every permit issued under this division shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of 12 months.~~

The City Manager or designee shall annually renew the peddler permit of any applicant who has provided the city with new or updated information, documents, and fees as indicated in this division, and who continues to meet all requirements of such sections.

Peddler permits not renewed prior to October 1 of each year will be assessed a delinquency penalty of 10% for the month of October, plus an additional 5% penalty for each subsequent

month of delinquency until paid, up to a maximum delinquency penalty of 25%.

Any active peddler with a peddler permit that has not been renewed prior to January 31 of each year shall be referred to the Code Compliance Special Magistrate pursuant to Ch. 2 Article VI of the Code of Ordinances.

Section 11: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-5853. - Display.

~~Every peddler having a permit issued this division and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed an offense.~~

Every permitted peddler shall have in his/her possession, and provide upon the request of any person, an unaltered copy of his/her peddler permit. Every peddler shall also be required to obtain a photo-identification badge as provided by the city Licensing Division which shall be attached to his/her clothing at all times while performing the functions described as peddling. Failure to provide either item shall be deemed a violation of this division.

Section 12: Chapter 18, Code of Ordinances for

The City of Key West, is amended as follows:

Sec. 18-5864. - Revocation.

~~Any permit issued under this division may be revoked by the city commission manager or designee for the violation by the permittee of any applicable section of this Code, state law or city ordinance, rule or regulation.~~

(a) A permit obtained through fraud or through material misrepresentation on the permit holder's application is deemed void ab initio, and the city manager shall revoke the permit. Prior to revocation, the city manager or his/her designee shall provide the permit holder notice and an informal opportunity to be heard on the decision to revoke.

(b) If a permit holder is found by the code enforcement special master or the county court to have violated the regulations set forth in this article two times within a three-year period, then the city manager may revoke the permit. Prior to revocation, the city manager or his designee shall provide the permit holder notice and an informal opportunity to be heard on the decision to revoke.

(c) Any revocation of a permit under subsections (a) or (b) shall be for the duration of the current permitting period and for the ~~next~~ subsequent permitting period.

(d) The decision of the city manager or his designee, ~~special magistrate or county court judge~~ to revoke a permit, or the denial of a permit based on Sec. 18-578(7), or any

disciplinary action or fine under this section shall be provided in writing to the permit holder. The revocation decision shall constitute final administrative agency action and shall be appealable directly to circuit court the city commission at their next available meeting after providing a written notice of appeal with supporting documents to the city clerk within ten (10) days of receipt of the revocation.

Section 13: 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 14: 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 15: 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 _____
Commissioner Gregory Davila _____
Commissioner Mary Lou Hoover _____
Commissioner Sam Kaufman _____
Commissioner Clayton Lopez _____
Commissioner Billy Wardlow _____
Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK