

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, ENTITLED "ENVIRONMENT", ARTICLE IV., ENTITLED "SOUND CONTROL BY AMENDING SECTION 26-191, "DEFINITIONS"; AMENDING SECTION 26-192 TO AMEND AND CLARIFY UNREASONABLY EXCESSIVE NOISE PROHIBITIONS; AMENDING SECTION 26-193 TO AMEND AND CLARIFY EXCEPTIONS TO THE SOUND CONTROL ORDINANCE; BY ADDING LANGUAGE REGULATING LEAF BLOWERS; ADDING SECTION 62-5 STATING PROHIBITION AGAINST BLOWING DEBRIS INTO STORM DRAINS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to amend Chapter 26 "Environment" of the City's Code of Ordinances ("Code"); and

WHEREAS, in response to numerous complaints by residents of the City of Key West regarding offensive noise and environmental pollution in connection with the use of gas powered leaf blowers, the City Commission directed staff to draft a comprehensive ordinance regulating the use of leaf blowers in the City of Key West;

WHEREAS, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans, and deprive people of the peaceable enjoyment of their private

property; and

WHEREAS, the City Commission finds that the use of leaf blowers to clear public and private property affects air quality, water quality, and impacts health and noise levels citywide; and

WHEREAS, after thorough consideration of various regulation options, the City Commission finds it is in the best interests of the residents, property owners, and visitors of the City of Key West to regulate the operation of gas powered leaf blowers and that amendments to the Code of Ordinances are deemed necessary by the City Commission to protect the health, safety, and general 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 26-191 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 26-191. - Definitions.**

For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the

context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in this article.

[...]

Fuel means any material such as coal, oil or gas, that is burned to produce heat or power.

Leaf Blower means any device used, designated or operated to produce a current of air by electricity or other means to push, propel or blow lawn, tree or plant cuttings, refuse or debris. Such devices shall not produce a current of air by fuel unless for commercial use and fitted with a muffler or muffled pursuant to Sec. 26-193(4) (a). The use of gasoline powered leaf blowers is prohibited on any property within the city which is less than a 1/2 acre in size.

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\*(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.)

This prohibition shall be effective as of 8:00 a.m. on January 1, 2021. Notwithstanding the provisions of 26-193, no fuel powered blower shall be used within 50 feet of a residence at any time.

[...]

Section 2: That Section 26-193 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 26-193. - Exceptions.**

The prohibitions contained in this article shall not apply to the following:

[...]

(4) Domestic power tools. Except as provided in section 26-191, sound levels produced from any hand-powered or mechanically powered saw, sander, drill, grinder, lawn/garden tool or reasonably similar tools. However, to be lawful, sound producing the use must conform to industry standards for the equipment and must occur only between 8:00 a.m. and 7:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday and Sunday only.

(a) Commercial Leaf Blowers. The operation of any

noise-creating blower which is powered by fuel, the operation of which causes noise due to the explosion of operating gases or fluids, is prohibited unless the noise from such blower or fan is muffled or such engine is equipped with a muffler device sufficient to deaden such noise.

[...]

Section 3: That Section 62-5 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 62-5. - Leaf Blowers.**

- (a) It shall be unlawful for any person who operates a leaf blower as defined by section 26-191 within the City to allow any leaves, dirt or any other debris blown to enter the storm drain system. All leaves, dirt, or any other debris blown on to public property or in the public right-of-way must be cleaned up and removed. Any person who violates this section shall be subject to the penalties as prescribed in chapter 2, article VI, division 2 of the Code of Ordinances for the City of Key West.

(1) Notwithstanding the foregoing, a person shall not be in violation of this section of blowing debris on any public property or in the public right-of-way if they remove the debris within 30 minutes of deposit and dispose of the debris in a sanitary manner which will prevent dispelling by wind, vandalism, or similar means. This exception shall not apply to the storm drain system.

[...]

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; however, to allow time for individuals and companies to acquire the necessary blowers, to provide for time for a transition to 2 stroke gas-powered leaf blower alternatives, as well as to allow for an educational period, the City will not commence enforcement of this ordinance until \_\_\_\_\_ on \_\_\_\_\_, 2021.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Filed with the Clerk \_\_\_\_\_, 2020.

Mayor Teri Johnston \_\_\_\_\_

Vice Mayor Sam Kaufman \_\_\_\_\_

Commissioner Gregory Davila \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

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

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

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

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TERI JOHNSTON, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK