

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

**A ORDINANCE OF THE CITY OF KEY WEST, FLORIDA AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES ENTITLED “AMUSEMENTS AND ENTERTAINMENT” BY ADDING DEFINITIONS TO SECTION 6-116; AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES ENTITLED “BUSINESSES” BY DELETING “MOPED AND SCOOTER RENTALS,” AND ADDING “RECREATIONAL RENTAL VEHICLES”; BY ADDING SECTION 18-354 ESTABLISHING THAT PERMITS REQUIRED, APPLICATION, FRANCHISE FEES; BY ADDING SECTION 18-355 ESTABLISHING RECREATIONAL RENTAL VEHICLES DEEMED A CONDITIONAL USE; BY ADDING SECTION 18-356 ESTABLISHING A 30-DAY PERIOD TO ESTABLISH NUMBERS OF RECREATIONAL RENTAL VEHICLES; BY ADDING SECTION 18-357 ESTABLISHING RESTRICTIONS ON BICYCLE TOUR COMPANIES; BY ADDING SECTION 18-358 ESTABLISHING REQUIREMENT OF CONCURRENCY TRAFFIC ANALYSIS FOR THE ESTABLISHMENT OF NEW OR RELOCATED RECREATIONAL RENTAL BUSINESSES; BY ADDING SECTION 18-359 ESTABLISHING IDENTIFICATION BY DECAL OF ALL RECREATIONAL RENTAL VEHICLES; BY ADDING SECTION 18-360 ESTABLISHING AN ANNUAL INSPECTION OF EACH RECREATIONAL RENTAL VEHICLE FACILITY; BY ADDING SECTION 18-361 ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Key West Planning Department has recommended changes to the Code of Ordinances for Recreational Rental Vehicles, Moped and Scooter Rentals, Bike Tours, and Electric Cars; and

**WHEREAS**, the City of Key West regulates permits, licenses, franchises, other

authorizations and land uses under the provisions of its Code of Ordinances and Comprehensive Plan for vehicle based businesses whose primary use is of city streets; and

**WHEREAS**, the City of Key West has experienced an increase in the level of street traffic from commercial recreational rental vehicles such as mopeds, electric cars, trolleys, bicycle tours, and other motorized and non-motorized modes of transportation; and

**WHEREAS**, this increase in vehicles is especially apparent in Key West's dense, nationally recognized historic district; and

**WHEREAS**, the City Commission is concerned that the increase in such vehicles, and related traffic congestion has adversely affected the health, safety and welfare of the City, its residents and visitors; and

**WHEREAS**, the City Commission found that a comprehensive traffic study was necessary to determine traffic capacity, volume, circulation, conflicts between vehicular and non-vehicular traffic for shared space, methods for reducing impacts of traffic in residential neighborhoods, and similar issues; and

**WHEREAS**, the purpose of the Key West Carrying Capacity Traffic Study 2011 authorized by the City Commission (the Study) evaluated the capacity of city streets and related transportation infrastructure; and

**WHEREAS**, the Study concludes the overall transportation network will not support additional traffic without capacity improvements; and

**WHEREAS**, roadway capacity improvements within the historic district and other locations in the City cannot be made without compromising the historic quality of the district and negatively impacting other streets, and at great expense; and

**WHEREAS**, the Study concluded that ongoing analysis of the traffic generating land uses will aid the City in regulating the size and location of such uses as a feasible alternative to constructing roadway expansions; and

**WHEREAS**, the Planning Board at its meeting of April 18, 2013 determined that the proposed ordinance is consistent with the Key West Comprehensive Plan; and

**WHEREAS**, the City Commission finds that the changes to the Amusements and Entertainment, Moped and Scooter Rental sections of the Code of Ordinances promotes the health, safety and welfare of the citizens of Key West.

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

Section 1: That Section 6-116 of the Code of Ordinances is hereby amended as follows:

**Sec. 6-116. 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:

*Animal-driven vehicle* means a vehicle used for transporting passengers and which is propelled by animal power.

*Bicycle tour* means an organized group of people traveling on bicycles guided by a tour leader for the purpose of sightseeing.

*Driver* means the person who possesses a valid state driver's license, or chauffeur's license if required by state law, and who propels, drives, or directs an entertainment vehicle.

*Driver permit* means the permit which each driver must obtain under division 3 of article II of chapter 78.

*Entertainment equipment* means sporting goods rented or leased to customers for the purpose of locomotion, excluding bicycles, mopeds, motorcycles, motorscooters equipped with a saddle and all water sports equipment. This definition includes but is not limited to roller skates, roller blades, scooters without a saddle (whether or not motorized), and skateboards.

*Motorized entertainment vehicle* means a motorized vehicle other than a taxicab, moped, motorcycle, motorscooter with a saddle, tour bus, sightseeing vehicle, city bus, or city-franchised vehicle, used in a business for the purpose of transporting passengers and for which a fare or fee is paid as consideration for such transportation.

*Multi-person Human Powered Entertainment Vehicle* shall mean a three or four wheel human powered vehicle with or without a driver capable of carrying three or more persons used for commercial purposes. Such a vehicle shall be considered an Entertainment Vehicle for the purpose of regulation under this Chapter and Chapter 18 of the Code of Ordinances.

*Nonmotorized entertainment vehicle* means a vehicle other than a city-franchised vehicle or two-wheeled bicycle used in a business for the purpose of transporting passengers and which is propelled by human power.

*Operator* means the ~~owner~~ operator of the entertainment vehicle or equipment business.

*Owner* means one who has legal title or right to an entertainment vehicle or equipment business.

*Permit* means the entertainment vehicle or equipment permit which is required for operation of the business.

*Recreational Rental Vehicle* shall mean a moped, motorized scooter, an “Animal-driven Vehicle,” a “Bicycle Tour,” a “Motorized Entertainment Vehicle,” a “Multi-person Human Powered Entertainment Vehicle,” or a “Non-motorized Entertainment Vehicle” as defined by the Code of Ordinances, for which a permit is required.

*Vehicle* means any wheeled device by which any person may be transported or drawn upon any public road.

*Vehicle Identification Number* shall mean either the Vehicle Identification Number assigned to a motorized vehicle by the State of Florida, or in the case of a non-motorized vehicle, a multi-number symbol, indicated on a decal or sticker provided by and assigned by the City of Key West to the owner of the Entertainment Vehicle or equipment business.

*Vehicle Identification Decal* shall mean a plastic or paper backed decal or sticker provided by the City of Key West, with Assigned Vehicle Identification Number required for each Recreational Rental Vehicle licensed to a particular site. The Vehicle Identification Decal shall be permanently affixed to the front of the vehicle for easy identification by City Licensing and Code Compliance personnel.

Section 2: That Article VII of Chapter 18 Moped and Scooter Rentals of the Code of Ordinances is hereby amended as follows:

**Article VII. ~~Moped and Scooter Rentals~~ Recreational Rental Vehicles**

Division 1. Generally

Sec. 18-351 Registration of rental units.

Sec. 18-352 Obedience to laws.

Sec. 18-353 Annual record of traffic accidents; license suspension.

Sec. 18-354. Permit required; application; franchise fees.

Sec. 18-355 Recreational rental vehicle deemed conditional use.

Sec. 18-356. 30-day period to establish numbers of recreational rental vehicles.

Sec. 18-357. Restrictions: bicycle tour companies

Sec. 18-358. Concurrency traffic modeling.

Sec. 18-359. Identification by decal.

Sec. 18-360. Annual inspection.

Sec. 18-361. Penalty.

Section 3: That Section 18-351 of the Code of Ordinances is hereby created as follows:

**Sec. 18-351. –Registration of rental units.**

- (a) Every person in the business of renting recreational rental vehicles to the public annually shall submit to the licensing division a list of recreational rental vehicles identified by serial number, that are available for rental. These registration lists shall be submitted and shall be updated annually at the time of business tax receipt renewal. No person shall rent or provide for rental a number of recreational rental vehicles in excess of that permitted under the business tax receipt.
- (b) Within 90 days after the submission of registration lists, the city manager shall report

the number of recreational rental vehicles to the city commission and recommend whether further regulation is necessary.

Section 4: That Section 18-352 of the Code of Ordinances is hereby created as follows:

**Sec. 18-352. – Obedience to laws.**

Every person in the business of renting recreational rental vehicles to the public and every person who rents and operates a recreational rental vehicle on the city streets shall abide by state traffic, motor vehicle, motor vehicle operator and insurance laws. No person in the business of renting recreational rental vehicles to the public shall so rent or otherwise provide a recreational rental vehicle to a person who appears to be or for whom the business personnel have reason to believe is incompetent to operate a recreational rental vehicle whether due to drunkenness, incapacity by drugs, age or physical or mental infirmity. This article shall not be applicable to the rental of automobiles.

Section 5: That Section 18-353 of the Code of Ordinances is hereby created as follows:

**Sec. 18-353. – Annual record of traffic accidents; license suspension.**

The licensing division, in cooperation with the police department, shall maintain an annual record of all reported traffic accidents involving recreational rental vehicles. The record shall include the registered owner of the vehicle, the cause of the accident, the injuries sustained, and the traffic citations issued. If, in the opinion of the city manager, a substantial or disproportionate number of accidents are attributable to a rental business, the city manager may make the rebuttable presumption that its instruction and training are inadequate and take action to suspend the business tax receipt in accordance with

section 66-105.

Section 6: That Section 18-354 of the Code of Ordinances is hereby created as follows:

**Sec. 18-354. –Permit required; application; franchise fees.**

- (a) A permit system for recreational rental vehicle and bicycle tours is hereby established. It shall be unlawful for any business to operate in the City of Key West without first obtaining a permit as required by this article.
- (b) The City through its licensing division shall issue Recreational Rental Vehicle and bicycle tour permits. Each permit shall be valid for one year; beginning June 1 and ending May 30.
- (c) The licensing division shall establish a standard application that shall include, but not be limited to, the following information:
  - (1) Business Name
  - (2) Business Address and telephone of the applicant
  - (3) For rental vehicles; vehicle identification number and proof of valid registration
  - (4) For Recreational Rental Vehicles; fee of \$50.00 plus \$1.00 per vehicle; for bicycle tours \$100.00
- (d) The holder of a Recreational Rental Vehicle permit may obtain a renewal of the permit each year on or prior to May 30 by applying to the licensing office and submitting the following information:
  - (1) Vehicle identification number for each permitted unit;
  - (2) A renewal fee of \$50.00 per moped/scooter and electric car business plus



\$1.00 per unit; \$100.00 per bike tour business if paid prior to June 1, with a penalty of \$25.00 if paid after June 1.

(e) Any Recreational Rental Vehicle permit not renewed within 30 days of its expiration on May 30 shall be void and of no use or effect whatsoever.

(f) Violations of this section shall be penalized as provided in section 1-15 and subject to prosecution and fine under civil citation procedures of sections 2-676 through 2-680.

Section 7. That Section 18-355 of the Code of Ordinances is hereby created as follows:

**Sec. 18-355. Recreational Rental Vehicle Deemed Conditional Use.**

As of the effective date of this ordinance, all moped/scooter, electric car, bike tour and other recreation rental establishments are considered deemed to have a valid conditional use approval as required by section 122-61, with the number of legally established registered rental units according to section 18-351 and 18-356 for which the number has been recorded in City records. The establishment of any new or relocation of a Recreational Rental Vehicle use shall require a conditional use approval, and may be established only within the zoning districts which allow small recreational power-driven equipment rentals as a conditional use.

Section 8: That Section 18-356 of the Code of Ordinances is hereby created as follows:

**Sec. 18-356. 30-Day Period to Establish Numbers of Recreational Rental Vehicles.**

As of the effective date of this ordinance, a period of 30 days is created to correctly establish the number of rental mopeds/scooters, bike tours, electric cars and other recreational rental vehicles in use during the creation and publication of the Key West Carrying Capacity Traffic Study in 2011, and also to establish the number of current and active business tax receipt holders of recreational rental vehicle businesses that were in place on January 1, 2013 in order establish the maximum number of Recreational Rental Vehicle units operating on City streets. The City shall during the 30-day period establish a method for registration of businesses and rental units and publish notice of the process.

Section 9: That Section 18-357 of the Code of Ordinances is hereby created as follows:

**Sec. 18-357. Restrictions: Bicycle Tour Companies**

As of the effective date of this ordinance, owners and operators of bicycle tour companies shall meet clients and exchange money at the business address; shall not block or obstruct traffic in any manner; shall not solicit prospective clients while on public property; and shall take no more than fifteen (15) clients per tour guide.

Section 10: That Section 18-358 of the Code of Ordinances is hereby created as follows:

**Sec. 18-358. – Traffic Impacts on Level of Service.**

Any new or relocated non-motorized and/or motorized recreational rental vehicle rental permit applicant shall be required to complete a traffic impact analysis to demonstrate that the size, location and operation of the facility does not degrade the existing traffic Level of Service (LOS) of City streets, corridors and intersections determined by the City staff to be affected by the proposed use. If the traffic analysis, in the opinion of City staff and its consultants, demonstrates an increase

of average daily or peak hour traffic of 3% or more, impacting City streets and intersections, the applicant shall mitigate the impact by constructing a capital improvement for that section impacted or a transportation mitigation program, which may include, at City’s sole discretion, payment of traffic impact fees appropriate to the impacts created. The identification of a significant (as described above) traffic impact, as determined by the Planning Board may serve as one reason to deny the application.

Section 11: That Section 18-359 of the Code of Ordinances is hereby created as follows:

**Sec. 18-359. – Identification by Decal.**

Within ninety (90) days of the effective date of this ordinance, the City shall provide to each licensee of each Recreational Rental Vehicle establishment, a vehicle Identification Decal for each of the Recreational Vehicles licensed to the licensed site. During this 90-day period, City Code Compliance staff shall inspect each licensed site, to establish that the decals are permanently and properly affixed to the specific vehicle corresponding to the Vehicle Identification number registered to that site or sites when a business licensee operates from multiple sites.

Section 12: That Section 18-360 of the Code of Ordinances is hereby created as follows:

**Sec. 18-360. – Annual Inspection.**

The code compliance department shall inspect each facility on an annual basis prior to the issuance of a recreational vehicle permit to determine compliance with the conditions of this article.

Section 13: That Section 18-361 of the Code of Ordinances is hereby created as follows:

**Sec. 18-361. – Penalty.**

Violations of this article shall be subject to prosecution and fine under the civil citation procedures of sections 2-676 through 2-680, or section 1-15 of the Key West Code

Section 14: If any section, provision, clause, phase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provision of this Ordinance shall be deemed severable there from and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 15: All Ordinances or parts of Ordinances of said City in conflict with the provision of this Ordinance are hereby superseded to the extent of such conflict.

Section 16: This Ordinance shall be transmitted by the Director of the Planning Department to the State Land Planning Agency pursuant to Chapter 163 and 380. (F.S.).

Section 17: This Ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding the amendment is in compliance with Chapter 163, (F.S.), and after any applicable appeal periods have expired.

Section 18: The numbering of the forgoing amendment may be renumbered to conform to

the numbering of the City of Key West Comprehensive Plan and shall be incorporated in the City of Key West Comprehensive Plan.

Read and passed on first reading at a regular meeting held this \_\_\_\_ day of \_\_\_\_\_, 2013.

Read and passed on second reading at a regular meeting held this \_\_\_\_ day of \_\_\_\_\_, 2013.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_ day of \_\_\_\_\_, 2013.

Filed with the Clerk \_\_\_\_\_, 2013.

\_\_\_\_\_  
MARK ROSSI, VICE MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK