

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES" BY CREATING ARTICLE XIII ENTITLED "MOBILE BILLBOARDS" AND BY CREATING SECTION 70-802 ENTITLED "PURPOSE"; BY CREATING SEC. 70-803 ENTITLED "DEFINITIONS"; BY CREATING SEC. 70-804 ENTITLED "PROHIBITIONS"; BY CREATING SEC. 70-805 ENTITLED "EXCEPTIONS"; BY CREATING SEC. 70-806 ENTITLED "PENALTIES"; 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 mobile billboard advertisement serves as a distraction to drivers of other motor vehicles, bicycles, and vessels on the densely occupied streets and waters off of Key West; and

WHEREAS, The City Commission for The City of Key West further finds that this regulation is a permissible time, place and manner regulation on commercial speech pursuant to *Showing Animals Respect and Kindness et.al. v City of West Hollywood*, 166 Cal.App.4th 815, Court of Appeal, 2nd Dist., Div.1, California, 2008.; and,

WHEREAS, Sec. 1.02 of the City Charter for the City of Key West permits the City Commission to enact and enforce ordinances that abate nuisances up to 600 feet into the tidal waters adjacent to its corporate limits,

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

Section 1: That Chapter 70 of the Code of Ordinances for the City of Key West, is amended by adding a new Article XIII, Sec. 70-802 to be appropriately designated and to read as follows:

Article XIII. MOBILE BILLBOARDS

Sec. 70-802 Purpose

The purpose of this Article is to eliminate mobile, land and water-based billboard advertising within the city limits of the City of Key West, including up to 600 feet into the tidal waters

*(Coding: Added language is underlined; deleted language is ~~struck through~~. Added language for second reading is double-underlined; deleted language is ~~double struck through~~)

adjacent to the City of Key West's corporate limits. The City Commission for The City of Key West finds that mobile billboards serve as a significant distraction to other operators of motor vehicles and vessels; especially on and around the densely populated island of Key West.

Section 2: That Chapter 70 of the Code of Ordinances for the City of Key West, is amended by adding a new Article XIII, Sec. 70-803 to be appropriately designated and to read as follows:

Sec. 80-803 Definitions

Mobile Billboard Advertising is any advertising of a business, goods, or services for which the mobile billboard owner or operator does not hold a majority ownership interest in that is displayed on a bicycle, vehicle, motor vehicle or vessel that carries, conveys, pulls or transports any sign or billboard for the primary purpose of advertising.

Section 3: That Chapter 70 of the Code of Ordinances for the City of Key West, is amended by adding a new Article XIII, Sec. 70-804 to be appropriately designated and to read as follows:

Sec. 80-804 Prohibitions

- (1) It shall be unlawful for any person to conduct, or cause to be conducted, any mobile billboard advertising upon any public street, or other public place within the city in which the public has the right of travel.
- (2) It shall be unlawful for any person to conduct, or cause to be conducted, any mobile billboard advertising upon any vessel or floating structure within 600 feet of the shoreline of the City of Key West.

Section 4: That Chapter 70 of the Code of Ordinances for the City of Key West, is amended by adding a new Article XIII, Sec. 70-805 to be appropriately designated and to read as follows:

Sec. 80-805 Exceptions

This Article shall not apply to:

- (1) Any vehicle, vessel or floating structure which displays an advertisement incidental to the primary business

purpose of the vehicle, so long as such vehicle or vessel or floating structure is engaged in the usual business or regular work of the owner, and not used merely, mainly, or primarily to display advertisements;

- (2) Busses;
- (3) Taxicabs.

Section 5: That Chapter 70 of the Code of Ordinances for the City of Key West, is amended by adding a new Article XIII, Sec. 70-806 to be appropriately designated and to read as follows:

Sec. 80-806 Penalties

A first violation of this Article shall receive a written warning issued by the Key West Police Department or Code Compliance for The City of Key West. Subsequent violations are subject to penalties pursuant to Sec. 1-15 up to, and including arrest.

Section 6: 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 7: 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 _____
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