

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 ENTITLED "ENVIRONMENT," ARTICLE III ENTITLED "LITTER", BY AMENDING SECTION 26-161 ENTITLED "DEFINITIONS", BY ADDING A DEFINITION OF PUBLIC OR SEMI-PUBLIC AREAS; ADDING SECTION 26-165 ENTITLED "UNLAWFUL DEPOSIT OF CIGARETTE BUTTS"; ADDING 26-166 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 recognizes that used cigarette butts contain toxic particulate matter (tar) that is comprised largely of arsenic, nicotine, polycyclic aromatic hydrocarbons and heavy metals; and

WHEREAS, the City Commission recognizes studies that have shown the harmful effects of cigarette butts that are not properly disposed of, including a high likelihood of leaching these harmful chemicals into the soil and/or the storm water runoff, that eventually makes its way into the surrounding waters, including the sensitive and unique coral reef and sea life; and

WHEREAS, the City Commission recognizes that the presence of cigarette butts that contain these harmful

chemicals present a dangerous risk of ingestion by pets and small children in city parks, playgrounds, and beaches; and

WHEREAS, an amendment to the code of ordinances in order to create a ban on all unlawful deposits of cigarette butts in public areas of the City of Key West will promote the health, safety and 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 26-161 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 26-161. - 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:

*Litter* includes all garbage, rubbish, yard waste, and all waste materials including, but not limited to, bottles,

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

glass, cans, scrap metal, junk, paper, disposable packages or containers and all other similar materials, and any substance of any kind or nature whatsoever that creates a public health, safety or fire hazard or a public nuisance.

Public or semipublic area means any private or public road, street, highway, right-of-way, lane, alley, parking lot, parking area, park, beach or open space on which the public is expressly or implicitly invited to travel by motor vehicle or pedestrian means or which is otherwise open for such travel.

Section 2: That Section 26-165 is hereby added to the Code of Ordinances as follows:

**Sec. 26-165 - Unlawful deposit of Cigarette Butts.**

It shall be unlawful to deposit any used or unused cigarette butt onto any public or semi-public areas including any beach, park, sidewalk, or any right of way. This prohibition shall not apply to the proper disposal of cigarette butts in properly marked receptacles intended for such purpose.

Section 3: That Section 26-166 is hereby added to the Code of Ordinances as follows:

**Sec. 26-166 - Penalties.**

Notwithstanding any other provision of this article, a violation of Sec. 26-165 shall be punishable ~~under Sec. 2-680 of the Code of Ordinances~~ by a \$25.00 fine payable to the Clerk of Court if paid within 10 days of the citation issuance. If the person fails to pay the citation within 10 days or fails to appear in court to contest the violation, the person shall be deemed to have waived the right to contest the citation, and in such case judgement may be entered against the person, not to exceed \$100.00. Any person who willfully refuses to sign and accept a citation shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. 775.082 or F.S. 775.083. Citations may be issued by law enforcement officers, or by code enforcement officers pursuant to Sec. 2-678

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.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_, 2016.

Filed with the Clerk \_\_\_\_\_, 2016.

Mayor Craig Cates \_\_\_\_\_

Vice Mayor Clayton Lopez \_\_\_\_\_

Commissioner Samuel Kaufmann \_\_\_\_\_

Commissioner Richard Payne \_\_\_\_\_

Commissioner Margaret Romero \_\_\_\_\_

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

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

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CRAIG CATES, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK