

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,  
AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES  
ENTITLED "ENVIRONMENT" BY CREATING ARTICLE VII  
ENTITLED "SUNSCREEN"; SECTION 26-223 ENTITLED  
"SALE OF SUNSCREEN PRODUCTS; 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 two chemicals contained in many sunscreens, oxybenzone and octinoxate, have significant harmful impacts on the marine environment and residing ecosystems around the waters of Key West, including coral reefs that protect the shoreline of Key West, and the Florida Keys. Oxybenzone and octinoxate cause mortality in developing coral; increase coral bleaching that indicates extreme stress, even at temperatures below 87.8 degrees Fahrenheit; and cause genetic damage to coral and other marine organisms. These chemicals have also been shown to degrade corals' resiliency and ability to adjust to climate change factors and inhibit recruitment of new corals. Furthermore, oxybenzone and octinoxate appear to increase probability of endocrine disruption; scientific studies show that both chemicals can induce feminization in adult male fish

and increase reproductive diseases in marine invertebrate species (e.g., sea urchins), vertebrate species (e.g., fish such as wrasses, eels, and parrotfish), and mammals. The chemicals also induce deformities in the embryonic development of fish, sea urchins, coral, and shrimp and induce neurological behavioral changes in fish that threaten the continuity of fish populations. In addition, species that are listed on the federal Endangered Species Act and inhabit the waters near Key West, including sea turtle species, marine mammals, and migratory birds, may be exposed to oxybenzone and octinoxate contamination.

WHEREAS, The City Commission for The City of Key West further finds that environmental contamination of oxybenzone and octinoxate persists in the coastal waters near Key West, as the contamination is constantly refreshed and renewed every day by swimmers and beachgoers. Swimming and other water activities cause these chemicals to pollute the waters near Key West, unless they are actively mitigated. Sewage contamination of coastal waters is another source of oxybenzone and octinoxate environmental contamination, as these chemicals are not removed

by the city's wastewater treatment system. Oxybenzone and octinoxate are also discharged to the ground and surface waters from cesspools, leaking septic systems, and municipal wastewater collection and treatment systems. The purpose of this ordinance is to preserve marine ecosystems, including coral reefs, by prohibiting the sale in The City of Key West of ultraviolet sun protection factor sunscreen personal care products containing oxybenzone and octinoxate.

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

Section 1: That Chapter 26 of the Code of Ordinances for the City of Key West, is amended by adding a new Article VII to be appropriately designated and to read as follows:

**Article VII. SUNSCREEN**

Sec. 26-223. Sale of sunscreen products containing oxybenzone or octinoxate, or both; prohibition; Penalty.

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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~~)

(a) For purposes of this section:

"Octinoxate" refers to the chemical ((RS)-2-Ethylhexyl (2E)-3-(4-methoxyphenyl)prop-2-enoate under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 5466-77-3; whose synonyms include but are not limited to ethylhexyl methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, Neo Heliopan AV, NSC 26466, Parsol MOX, Parasol MCX, Parsol MOX, and Uvinul MC80; and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 370 nanometers to 220 nanometers in an SPF sunscreen protection personal care product.

"Oxybenzone" refers to the chemical (2-Hydroxy-4-methoxyphenyl)-phenylmethanone under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 131-57-7; whose synonyms include but are not limited to benzophenone-3, Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, Uvasorb MET/C, Syntase 62, UV 9, Uvinul 9, Uvinul M-40, Uvistat 24, USAF Cy-9, Uniphenone-3U, 4-methoxy-2-hydroxybenzophenone and Milestab 9; and is intended to be used as protection against ultraviolet light radiation

with a spectrum wavelength from 370 nanometers to 220 nanometers in an SPF sunscreen protection personal care product.

"SPF sunscreen protection personal care product" includes but is not limited to lotion, paste, balm, ointment, cream, solid stick applicator, brush applicator, roll-on applicator, aerosol spray, non-aerosol spray pump, and automated and manual mist spray."

(b) It shall be unlawful to sell, offer for sale, or distribute for sale in the City of Key West any SPF sunscreen protection personal care product that contains oxybenzone or octinoxate, or both, without a medically-licensed prescription.

(c) Penalty. A first time violation of this section shall result in one written warning. Second and subsequent violations shall be punishable by the civil citation procedure pursuant to Ch. 2, Article VI, Division 3 of the Code of Ordinances for The City of Key West.

Section 2: 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 3: 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 4: This Ordinance shall go into effect one year from 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:

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CHERYL SMITH, CITY CLERK