

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES ENTITLED "BUSINESSES" BY AMENDING ARTICLE VI ENTITLED "MOBILE VENDORS", SECTION 18-324 "CONDITIONS OF USE"; 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 there had been a prohibition against having motorized mobile vendors on the public rights of way within the historic district previously described as HP-2; and

WHEREAS, the City Commission for the City of Key West finds that The Land Development Regulations were amended approximately in 1997 and the HP-2 zoning district was renamed to comprise several newly named historic districts; and

WHEREAS, the City Commission for the City of Key West finds that an amendment to Sec. 18-324(8) to reflect what was formerly referred to as HP-2 will better place the general public on notice of this long standing prohibition of motorized mobile vendors on public rights of way within the historic district.

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

Section 1: That Chapter 18-324(8) of the Code of Ordinances is hereby added/amended as follows*:

Sec. 18-324(8) - Conditions of Use.

Persons offering goods or services for business sale and holding a valid mobile vendor's license shall be situated, together with their vehicles, goods, displays, or other accoutrements, only upon public roads, and shall not:

- (1) Obstruct vehicular or pedestrian traffic;
- (2) Enter upon sidewalks, footpaths, or the 50-foot-wide bridle path parkway adjacent to the northern curb of South Roosevelt Boulevard;
- (3) Enter upon any zoning district or area of the city, except as follows, and according to the conditions and hours shown:

- a. CG, from 8:00 a.m. until 11:00 p.m.;
- b. CL, from 8:00 a.m. until 11:00 p.m.;
- c. HMDR, HRO, HHDR and HNC-1, 2, 3, from 8:00 a.m. until 8:00 p.m.; and HCT, HRCC-1, 2, 3, (as limited in subsection (14)) from 8:00 a.m. until 5:00 a.m., except that no person shall conduct or offer to conduct any business sale of

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

goods or services on Duval Street (from Florida Bay to the Atlantic Ocean), and on Front Street, including any and all sidewalks, parking lots, and other public property adjacent to Duval Street or Front Street; including that area known as Clinton Square, including that portion of Whitehead Street between Front Street and a point 100 feet south of Greene Street, and including the portion of Greene Street from Whitehead Street to Front Street provided, however that a mobile vendor's license shall operate in an historic zoning district only after the historical architectural review commission has approved the appearance of the mobile vendor's license holder's vehicle(s) and/or displays;

d. The paved roadway adjacent to Smathers Beach, from 8:00 a.m. until 8:00 p.m.

(4) Enter upon any parking lot, no-parking area, residential parking program space, designated or restricted parking area or loading zone;

(5) Enter upon any metered public parking space, unless the required meter amounts are paid as due;

(6) Stop or stand any vehicle, except in the normal flow of traffic, except vehicles less than 20 feet in length and 11 feet in height, including any towed vehicle, unless otherwise provided in this article;

(7) Enter within 500 feet, measured by ordinary pedestrian route, of any elementary or secondary school building during a period commencing 30 minutes before classes begin and expiring 30 minutes after classes are concluded each day, unless in possession of written permission of the principal of such school, whose determinations shall protect the health and safety of the students;

(8) Occupy, including the vehicles as well as associated goods, displays, and any accoutrements whatsoever, all of which must be affixed to the vehicle, a space larger than 20 feet in length and eight feet in width; provided, however, that in the HP-2 HRCC-1, HRCC-2, HRO, HNC-1, HPS, HRCC-3, HCT zoning districts the space shall not exceed seven feet by four feet in dimension, and all vehicles shall be non-motorized within said districts as contained in this subsection. Non-motorized shall mean that no mobile vendors shall occupy any cart, structure, vehicle, or conveyance of any kind on city rights of way within this subsection that contains any combustible engine or electric motor or any form of non-human propulsion devices.;

(9) Station himself or any vehicle, goods, displays or other accoutrements whatsoever within 75 feet of any business property licensed pursuant to this Code which offers for business sale the same goods or services;

(10) Station himself upon South Roosevelt Boulevard and there offer for rent any item of beach or water sports equipment greater than seven square feet in dimension and weighing more than 15 pounds, including but not limited to lounge chairs, jet skis, boats, sailboats, sailboards, or surfboards, except by written franchise granted by the city commission;

(11) Except by authorization of the city manager, leave any vehicle unattended for a period of longer than one hour;

(12) Fail to provide an appropriate number and size of fire extinguishers, if using any flammable substance in vending operations; or

(13) Display more than two signs of total combined area of 12 square feet, which signs must be displayed on the vehicle.

(14) Operate from Truman Avenue east to the Atlantic Ocean (including along Truman, Julia, Virginia, Amelia, Catherine, Louisa, United and South Streets) as bounded by Simonton and Whitehead Streets; along Simonton, Duval and Whitehead Streets as bounded by Truman Avenue and the Atlantic Ocean, including the entire area known as the Southernmost Point (and Southernmost Monument). Mobile vendor license holder #12777 is hereby grandfathered at a

location on United Street at the southwest corner of United and Duval Streets.

(15) Notwithstanding relevant subsections above, a licensed mobile vendor who has consistently operated from a location that is otherwise not in strict conformity with the provisions of this article, may petition the city to remain in such location, conditioned upon: sufficient evidence being provided by the vendor to the city manager or his designee to document that consistent and regular activities have been conducted from such location for at least a period of one year within the past three years; there being no impediment to traffic, pedestrian or other safety and engineering concerns, or any laws relating thereto; all such necessary information required herein, or as requested by the city manager or his designee in conformity with this provision, being provided within 30 days of the effective date of this ordinance provision. Any request for an exemption hereunder made after the expiration of 30 days from the date of this provision shall not be considered. Any individual petitioning the city for this exemption shall pay any costs incurred by the city in verifying any health or safety concerns implicated by a particular location. Any exemption granted pursuant to this provision

shall irrevocably expire if not exercised by the holder for any period of five consecutive weeks.

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 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 _____, 2014.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2014.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2014.

Filed with the Clerk _____, 2014.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK