

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESSES", BY AMENDING ARTICLE II ENTITLED "ALCOHOLIC BEVERAGES", DIVISION II ENTITLED ENTERTAINMENT LICENSE, AMENDING SECTION 18-60 TO REDUCE THE NUMBER OF VIOLATIONS OF DIVISION 3 OF ARTICLE II OF CHAPTER 6 AND ARTICLE IV OF CHAPTER 26 FROM THREE TO ONE FOR A MANDATORY SUSPENSION OR REVOCATION HEARING, PROVIDING FOR ENFORCEMENT, FEES AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans, and deprive people of peaceable enjoyment of their private property; and

WHEREAS, the City Commission finds that an amendment to the Entertainment License ordinance will establish specific prevention of excessive and unnecessary noise so as to protect health, safety and general welfare of residents of the City of Key West.

WHEREAS, amending Section 18-60 to the Code of Ordinances 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 Article II, Division II, Section
18-60 is hereby amended in the Code of Ordinances as
follows*:

CHAPTER 18 - BUSINESSES

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ARTICLE II. - ALCOHOLIC BEVERAGES

DIVISION II. - ENTERTAINMENT LICENSE

Sec. 18-60. - Revocation or suspension.

(a) If a license holder is found in violation or
pleads no contest to a violation of division 3 of article
II of chapter 6 and article IV of chapter 26 ~~three (3)~~ ONE
(1) times within any annual period and the noise violations
are music related, the city manager ~~may~~ shall determine
whether to revoke or suspend for a period of time the
license holder's entertainment license. Before reaching a
decision, the city manager shall:

(1) Afford the license holder notice of the
hearing and a reasonable opportunity to be heard;

(2) Consider the license holder's record of noise
violations;

(3) Consider the seriousness and recurrence of the violation;

(4) Consider the degree of disturbance on persons or neighboring property owners; and

(5) Evaluate the license holder's record in mediation under section 18-59. (b) The city manager's decision to revoke or suspend an entertainment license shall be issued in writing and shall inform the license holder of the right to appeal the decision to the city commission. A written appeal must be filed with the city clerk within ten days of the receipt of the decision. The city commission shall have the ability upon appeal to reverse or affirm, wholly or partly, or modify the determination made by the city manager and may make any necessary further decisions respecting the subject of the appeal and, to that end, shall have all the powers as the city manager respecting such matter pursuant to subsection (a) above. An appeal shall not stay the city manager's decision unless the city manager's decision calls for a stay upon appeal. If a license is revoked or suspended and the establishment continues to provide live or recorded amplified music without a license,

the city attorney is authorized to apply for an injunction from the circuit court. Unreasonably excessive noise prohibited.

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

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 _____, 2024.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2024.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2024.

Filed with the Clerk _____, 2024.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Lissette Carey	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

TERI JOHNSTON, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK