

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES ENTITLED "BUSINESSES" BY AMENDING SECTION 18-26 TO PROVIDE DEFINITIONS; AMENDING SECTION 18-29 TO AMEND PENALTIES; ADDING SECTION 18-30 TO REQUIRE WARNING SIGNS ON PREMISES OF ESTABLISHMENTS WHICH SELL ALCOHOLIC BEVERAGES PROHIBITING THE SALE OR DISPENSING OF ALCOHOL FOR PERSONS UNDER 21 YEARS OF AGE, PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Florida's Municipal Home Rule Powers Act, Chapter 166, *Florida Statutes*, the City of Key West may exercise any power for a municipal purpose unless otherwise expressly prohibited; and

WHEREAS, the City Commission finds that underage drinking and the sale of alcoholic beverages to minors is a problem in the City of Key West; and

WHEREAS, medical studies and highway statistics note serious health risks and adverse effects associated with consumption of alcoholic beverages by minors; and

WHEREAS, the general public should be informed regarding the law prohibiting service of alcoholic beverages to minors; and

WHEREAS, the general public and business establishments as defined herein should be informed regarding the penalties associated with the sale or provision of alcoholic beverages to minors; and

WHEREAS, the posting of signs with such information by vendors and other dispensers of alcoholic beverages, warning of the prohibition against and the penalties associated with the sale of or provision of alcoholic beverages to minors, will make the public aware of the possible consequences of providing alcoholic beverages to underage minors; and

WHEREAS, the City Commission finds that the posting of these types of signs is an effective measure to generate awareness and deterrence of the provision of alcoholic beverages to underage minors; and

WHEREAS, the City Commission finds that this ordinance, requiring local businesses to post signs which describe the prohibition and penalties for serving of alcoholic beverages to minors, would serve to promote the health, safety and welfare of the citizens of Key West;

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

Section 1: That Section 18-26 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-26. 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:

Alcoholic beverages means distilled spirits and all beverages containing one-half of one percent or more alcohol by volume. The measurement of the percentage of alcohol by volume shall be determined as provided in F.S. ch. 561.

Business establishment includes, but is not limited to, any place of business or any club, organization, person, firm, corporation, partnership, or special event such as: a golf club, country club, veteran's fraternal or benevolent organization, grocery store, drug store, nightclub, bottle club, cocktail bar, hotel bar, tavern, bona fide restaurant, restaurant bar, grill, filling station, convenience store, package store, or any other building, structure or location of portion thereof, wherein one person directly or indirectly pays another for purchase or dispensing of an alcoholic beverage.

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

Conspicuously post means clearly visible to patrons and vendors, easily readable and immediately viewable upon reading.

Dispense means storing, handling, apportionment, preparation, gift, distribution, or serving, directly or indirectly, of any amount of an alcoholic beverage to or for any person by any officer, owner, operator, lessee, or employee of a business establishment. For purposes of this definition, permitting or allowing any person to carry alcoholic beverages on the premises of any business establishment to be consumed thereon shall constitute the "dispensing" of such beverages.

Minor means any individual under the legal drinking age as set forth in Section 562.11 and 562.111, Florida Statutes, as may be amended or replaced.

Sale means any transfer of an alcoholic beverage for consideration, or any gift of any alcoholic beverage in connection with or as part of a transfer of any property or product for consideration.

Vendor or vendor of alcoholic beverages means any person or entity who owns or operates a business establishment which sells or dispenses any alcoholic beverages for consumption on or off the premises at retail any alcoholic beverages for on premises consumption. ~~Vendor also includes any person or entity who owns and operates a liquor store, or other business establishment, including but not limited to grocery stores, drugstores,~~

~~convenience stores and gas stations, which has retail sale of alcoholic beverages.~~

Section 2: That Section 18-28 of the Code of Ordinances is hereby amended as follows:

Sec. 18-29. - Warning sign required to be posted.

(a) All vendors of alcoholic beverages shall post in a conspicuous place in their premises a sign which is clearly visible and legible to all patrons entering the premises which shall read as follows:

"HEALTH WARNING"

DRINKING DISTILLED SPIRITS, BEER (INCLUDING NON-ALCOHOLIC), COOLERS, WINE AND OTHER ALCOHOLIC BEVERAGES DURING PREGNANCY MAY INCREASE THE RISK OF PERMANENT BIRTH DEFECTS.

In the alternative, a health warning sign provided by the Florida Keys Healthy Start Coalition may be used.

(b) The above-described sign shall be legibly printed on cardboard or other similar material with at minimum one-half-inch block style letters.

(c) A violation of this section shall be subject to prosecution and fine under the civil citation procedures of sections 2-676 through 2-680, or section 1-15 of the Key West Code of Ordinances. Each day of a continuing violation shall

constitute a separate offense subject to the penalties set forth herein.

~~A violation of this section may be prosecuted in the same manner as a second-degree misdemeanor pursuant to F.S. section 125.60 or as a code violation under F.S. chapter 162 or through any other lawfully available method. Enforcement proceedings before the code enforcement Special Magistrate shall subject the violator to fines and penalties pursuant to Chapter 2, Article VI, Division 2 of the code of ordinances. Criminal prosecution pursuant to section 125.60, Florida Statutes shall subject a person to fines not to exceed five hundred dollars (\$500.00) or to imprisonment in the county jail not to exceed 60 days or both such fine and imprisonment. Each day of a continuing violation shall constitute a separate offense subject to the penalties set forth herein.~~

Section 2: That Section 18-30 is hereby added to the Code of Ordinances as follows:

Sec. 18-30. Posting and required notice regarding prohibition of purchase and sale of alcoholic beverages to persons under 21 years of age.

(1) All persons who own or operate a business establishment in the City which sells or dispenses alcoholic beverages for consumption on or off the premises shall conspicuously post a notice within said business establishment in such a place where alcoholic beverages are either displayed, purchased or consumed.

Such notice shall comply with the requirements of this section.
Failure to post such required notice pursuant to the requirements
of this section shall constitute a violation of this ordinance.
This restriction shall not apply to a bona fide restaurant without
a restaurant bar. Such places of business shall conspicuously post
a notice within said business establishment in such a place where
it will be visible to all employees of said business.

(2) Required notice shall consist of one or more signs or
notices, each of which is not less than 93 square inches (8-1/2 by
11"), with at least one-half-inch block style letters, which
contains the following information, clearly discernable by persons
to whom alcoholic beverages may be sold or dispensed:

"IT IS UNLAWFUL TO PURCHASE ALCOHOL IF YOU ARE UNDER
21 YEARS OF AGE.

IT IS UNLAWFUL TO SELL OR DISPENSE ALCOHOL TO PERSONS
UNDER 21 YEARS OF AGE, UNLESS EXEMPT PURSUANT TO
SECTIONS 562.11 OR 562.13, FLORIDA STATUTES.

THE PENALTIES ASSOCIATED WITH THE SALE OR DISPENSING
OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF
AGE INCLUDE IMPRISONMENT IN COUNTY JAIL FOR A PERIOD
OF UP TO 60 DAYS, A FINE UP TO \$500, OR BOTH.

TO REPORT THOSE WHO ARE IN VIOLATION OF THE LAW, YOU

CAN CALL:

KEY WEST POLICE -- (305) 809-1000 (NON-EMERGENCY #)

FL DIVISION OF ALCOHOLIC BEVERAGES & TOBACCO -

1-866-40-SUDS (866-540-7837)

In the alternative to the above language, a health warning sign provided by the Monroe County Coalition may be used.

(3) A violation of this section shall be subject to prosecution and fine under the civil citation procedures of sections 2-676 through 2-680, or section 1-15 of the Key West Code of Ordinances. Each day of a continuing violation shall constitute a separate offense subject to the penalties set forth herein.

Section 3: 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 4: 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 5: 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 _____, 2018.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2018.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2018.

Filed with the Clerk _____, 2018.

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