

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES ENTITLED "STREET PERFORMERS AND STREET ARTISTS" BY AMENDING SECTION 6-1 DEFINITIONS TO PROVIDE FOR AN AMENDMENT TO THE DEFINITION OF THE DUVAL STREET CORRIDOR CULTURAL DISTRICT PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that the existence of street performers and art vendors inherently attract audiences that congests the public area thereby creating a hazard to public health, safety and welfare of pedestrian passersby, it is the intent of the City Commission for the City of Key West to amend the Street Performers and Street Artists Ordinance; and

WHEREAS, the City of Key West finds that the existence of street performers in unregulated locations within the most historic area of the city and one of the most historically significant historic districts in the United States would adversely affect the interests of the residents and businesses in the enjoyment of their homes and businesses, the City Commission for the City of Key West hereby establishes acceptable areas for Street

Performers and Street Artists to safely perform their craft in the historic district; and

WHEREAS, the City Commission for the City of Key West finds that there exists extreme pedestrian congestion on the sidewalks of the historic district, along with previous testimony regarding modern minimum sidewalk clearances in light of the American With Disabilities Act's design guidelines for public rights-of-way and the task of reconciling the two, the amendments contained herein are justifiable time, place and manner regulations of free speech under the First Amendment; and

WHEREAS, the City Commission for the City of Key West finds that the pier at the southernmost end of Duval Street, commonly referred to as the "South Beach Pier" to be an area posing a particular hazard to pedestrians given the physical dynamics of the actual pier and the establishment of vendors contributes to those hazards; and

WHEREAS, an amendment to the Street Performers and Street Artists ordinance to include South Beach Pier in the prohibited area 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 Chapter 6 of the Code of Ordinances is hereby added/amended as follows*:

Sec. 6-1. Definitions.

Sec. 6-1. - Definitions.

Art shall mean painting, sketching, photography, palm weaving, crafts and sculpture and other mediums that are established and recognized in the artistic community, including by professional institutions such as museums and art galleries.

Animal shall mean any living or nonliving warm or cold-blooded creature including, but not limited to: reptiles, amphibians, arachnids, birds, or mammals.

Artisan and Performer Corridor shall mean those portions of public sidewalk on Duval Street from Front Street to Petronia Street including all intersecting streets up to, but not including, Whitehead Street and Simonton Street, and the 1400 block of Duval Street, as described in attached "Exhibit A" to Ord. No. 11-07 and Exhibit A1.

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

Duval Street Corridor Cultural District shall mean those portions of public sidewalk on Duval Street from Petronia Street to South Street including all portions of the concrete pier commonly referred to as the South Beach Pier as depicted in the attached "Exhibit C1". including all intersecting streets up to, but not including, Whitehead Street and Simonton Street and incorporated as described in "Exhibit C" to Ord. No. 11-07.

Historic District shall mean all property located within the following zoning districts of Key West: HRO, HRCC-1, HRCC-2, HRCC-3, HRCC-4, HMDR, HHDR, HNC-1, HNC-2, HNC-3, HCT, HCL, HPS, HPS-1 and HPRD.

Street performance (or street performer) shall mean the following activities (or one who engages in them): acting, singing, playing a musical instrument, pantomime, juggling, magic, dancing, comedy, acrobatics, puppetry, joke telling, character impersonation and other similar types of public performance done for the purpose of public entertainment or amusement.

Vending of art (or art vendor) shall mean the following activities (or one who engages in it): the creation, display and/or sale of art that is created only by the permit holder. An art vendor shall not include a

person who creates a work of art while in a public area, but has no intention to display for sale or sell the work of art in that area at any point in time.

Weapons shall mean any dirk, knife with a blade longer than two inches, scissors or shears with a blade longer than four inches, metallic knuckles, slingshot, billy, tear gas gun, chemical weapon or device, machete, axe, plastic gun or blunt-bladed table knife or other deadly weapon, excluding firearms which are governed by F.S. Ch.790, that is not otherwise regulated and approved by the Cultural Preservation Society for performances only at Mallory Square sunset celebration.

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 _____, 2012.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2012.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2012.

Filed with the Clerk _____, 2012.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK