



THE CITY OF KEY WEST
Code Compliance Division

P.O. BOX 1409
KEY WEST, FL 33041
(305) 809-3740

AMENDED
NOTICE OF CODE VIOLATION AND
ADMINISTRATIVE HEARING

DATE: July 21, 2011
RE: CASE NUMBER 11-00000934

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 0247

To:
Kenneth (Kenyatta) Arrington
1015 Simonton St
Key West FL 33040

Subject Address:
300 BLK Duval St
Key West, FL 33040

TAKE NOTICE that the City of Key West Code Compliance Division has requested the City of Key West Special Magistrate to conduct an administrative hearing regarding code violation(s) reported to you by

NOTICE OF CODE VIOLATION concerning the above noted subject address.

You were noticed that your property is in violation of the City of Key West Code of Ordinances for the following reason(s):

Violation Detail

00010 Permit required; Sec. 6-2 - Permittee shall furnish and maintain public liability and property damage insurance.

Violation Detail

00020 PERMIT REGULATIONS Sec. 6-4 - Amplified music being used by the unlicensed street performer on the 400 Blk of Duval St.

In accordance with Florida Statutes § 162 and Code of Ordinances, City of Key West, § 2-631 through § 2-647, The City of Key West has scheduled a hearing to be held at **Old City Hall, 510 Greene Street, Key West, Florida at 1:30 P.M. on:**

August 31, 2011

The Chambers will be open at 1:00 PM. These proceedings may be televised.

The purpose of this hearing is to determine if a violation(s) exists, the appropriate action to be taken, if any is required, and if any fines or penalties are to be imposed. **YOU ARE REQUESTED TO APPEAR AT THIS HEARING** to present evidence and/or testimony to show cause, if any, why you should not comply with City Ordinances. **YOUR FAILURE TO APPEAR MAY RESULT IN A FINE OR PENALTY BEING IMPOSED AGAINST YOU AND A LIEN BEING IMPOSED UPON YOUR PROPERTY.**

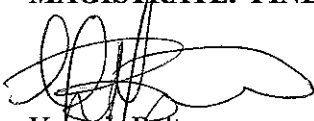
You have a right to have an attorney present at the hearing. If an attorney represents you, your attorney must file written notice with this office prior to the hearing date.

If you intend to request a continuance from the Hearing Date set out above you must submit a written request for a continuance addressed to the Special Magistrate and mailed to PO Box 1409, Key West, FL 33041 or delivered to the Special Magistrate's Legal Analyst at 3139 Riviera Drive, Key West, FL 33040. All requests must be received at least five (5) working days prior to the Hearing Date set out above. If the request is not received five (5) working days prior to the Hearing Date you or your attorney must appear on the Hearing Date to petition the Special Magistrate for a continuance. If any continuance is granted this will not stay discovery and all records previously requested must be supplied to the City or formally objected to.

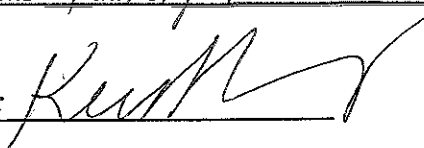

Be advised that, if you decide to appeal any decision of the Special Magistrate in this code enforcement hearing, you shall be responsible to ensure that a verbatim record of the proceedings of this code enforcement hearing is made, such that any evidence and testimony upon which an appeal may be based can be submitted to the appellate court.

If you are found to be in violation of City of Key West Ordinances, administrative costs in the amount of **\$250.00** may be levied for administrative recovery for prosecution and investigation in addition to levied fines associated with the violation(s). **Failure to pay these costs will result in a lien against the property in violation.**

PER FLORIDA STATUTES SECTION 162.09, YOUR FAILURE TO CORRECT THE VIOLATION (S) MAY RESULT IN THE IMPOSITION OF A FINE OF UP TO \$250.00/DAY, AND \$500.00/DAY FOR A REPEAT VIOLATION. IF THE VIOLATION (S) IS IRREPARABLE OR IRREVERSIBLE, A FINE OF UP TO \$5000.00 MAY BE IMPOSED BY THE SPECIAL MAGISTRATE. FINES MAY BE IMPOSED ON A PER DAY/ PER VIOLATION BASIS.


Yesenia Beltranena
Code Compliance Officer
City of Key West
(305) 809-3740

Hand Served this 27 day of June 2011

Received by:  

CASE NUMBER 11-00000934
PROPERTY ADDRESS STREET CITY

VIOLATION: Permit required; QUANTITY: 1
DESCRIPTION: Sec. 6-2 DATE: 7/14/11
LOCATION: 400 BLK DUVAL

NARRATIVE :

Permittee shall furnish and maintain public liability and property damage insurance.

ORDINANCE DESCRIPTION :

(a) A permit system for street performers and street artists is hereby established. It shall be unlawful for any person to engage in any street performance or art vending on public property in the Historic District within the area defined in section 6-1 as the Artisan and Performer Corridor without first obtaining a permit as required by this article. This ordinance shall not apply to impromptu behavior by persons not holding themselves out as public performers.

(b) The city through its licensing division shall issue street performer permits (Permit "A") and art vending permits (Permit "B") for use in the area defined in section 6-1 as the Artisan and Performer Corridor. Each Permit "A" and "B" shall be effective for a period of one year from the date of issuance. Those permits which have not been paid for in full and picked up at the licensing department within 14 days of notification that the permit is ready shall be forfeited.

(c) The licensing division shall establish a standard application form for "A" and "B" permits. This application form shall include, but not be limited to:

(i) Name, address and telephone number of the applicant;

(ii) A photograph of the applicant;

(iii) A declaration under penalty of perjury that the applicant for a "B" permit shall vend art that is only of his or her own original creation;

(iv) A hold-harmless agreement releasing the city and its employees from all claims and actions arising out of the street performance or art vending on public property; and

(v) A description of the performance or the art.

All applications to the licensing division must be made in person by the applicant;

(vi) Permittee shall furnish and maintain public liability and property damage insurance providing coverage for all claims and damage to property or bodily injury, including death which may arise from street performances or art

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 PROPERTY ADDRESS STREET CITY

ORDINANCE DESCRIPTION :

vending on city rights-of-way under this ordinance. Such insurance shall provide coverage of not less than \$300,000.00 for bodily injury and property damage respectively, per occurrence. The city shall be named as an additional insured. All policies required under this ordinance shall provide such policies may not be terminated or cancelled without 30 days' written notice sent via certified mail to the licensing official for the City of Key West. Performers are permitted to submit a group policy provided that the individual members possess coverage consistent with this section.

(vii) Applications for a Permit "B" shall also include a valid sales tax receipt issued by the State of Florida.

(d) A permit is nontransferable.

(e) A person whose permit application is denied for any reason may appeal to the circuit court.

(f) There shall be a limitation of five permits issued for palm weaving per year to be determined by lottery system established by the licensing department. All other requirements under chapter 110 for palm weavers must be complied with. Coconut fruits are expressly excluded from this permitting section.

(g) There shall be a fee of \$150.00 collected at the time of permit application for either Permit "A" or "B".

(Ord. No. 05-02, § 2, 1-4-2005; Ord. No. 06-03, § 1, 2-7-2006; Ord. No. 06-08, § 1, 4-4-2006; Ord. No. 08-05, § 1, 5-20-2008; Ord. No. 11-07, §§ 2, 10, 4-5-2011)

CORRECTIVE ACTION REQUIRED :

 VIOLATION: PERMIT REGULATIONS QUANTITY: 1
 DESCRIPTION: Sec. 6-4 DATE: 7/21/11
 LOCATION:

NARRATIVE :

Amplified music being used by the unlicensed street performer on the 400 Blk of Duval St.

ORDINANCE DESCRIPTION :

Permit regulations; prohibitions.

(a) Throughout the period of time the permit holder is located on public property and engaged in performance or vending art, he or she shall maintain the permitted area, within a radius of ten feet, free of trash and debris and

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ORDINANCE DESCRIPTION :

deposit the trash and debris in proper receptacles.

(b)A performer or art vendor shall not create noise that violates the Key West sound control ordinance set forth in chapter 26 of the Code of Ordinances.

(c)A performer or art vendor shall not create an undue interference with the passage of the public through a public area. If a performer or vendor attracts a crowd sufficient to obstruct the public way, a police or code enforcement officer may disperse the crowd that is creating the obstruction. The officer may ask the performer or vendor temporarily to suspend a performance or vending activity or to leave the location when such action is necessary to protect the public safety or public order.

(d)A performer may request donations of money or property at a performance. Art vendors holding a Permit "B" shall present a valid State of Florida sales tax receipt at the time of application. Art vendors may offer for sale their own original art (or a reproduction thereof so long as it is identified as a reproduction), provided that the display of the art is contained in an area within the immediate reach of the art vendor.

(e)No performer or art vendor shall create a fire hazard or use fire or a weapon as defined in section 6-1 in a performance or creation of art or crafts.

(f)No performer or art vendor shall engage in the application of tattoos or body piercing.

(g)No performer or art vendor shall include obscenity in a performance or vending activity.

(h)No performer or art vendor shall engage in harassment or coercion of passersby.

(i)Spray painting shall be permitted, so long as the artist provides ground cover, a wind screen, and confines the spray painting to an area not greater than five feet by five feet; and otherwise ensures that the spray paint shall not damage or implicate property not involved in the subject art.

(j)No food or drink, whether made by a permit holder or otherwise, shall be permitted to be displayed or offered for sale.

(k)No tables, lounge chairs, push carts or mobile display racks, including all accoutrements, shall be placed on public property other than one display that is no larger than six feet high, four feet wide and four feet deep including all attachments for either Permit "A" or Permit

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ORDINANCE DESCRIPTION :

"B" holders. One small chair or stool shall be allowed; a portrait artist may provide a folding chair for the customer which shall be stored when not in use. Permit holders shall not occupy an area larger than 25 square feet.

(l)No performer or art vendor shall block access to an entrance to a building, bicycle rack, or to a trash receptacle.

(m)No performer or art vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.

(n)A permit holder shall not engage in fraudulent practices or solicitations, including, but not limited to, misrepresentation about any sale or solicitation, misrepresentation about the nature and type of any organization with which the permit holder is associated, misrepresentation or concealment of any material fact in the application process, or misrepresentation regarding any art being vended.

(o)No performer or art vendor shall engage in off-premises canvassing as set forth in chapter 18 of the Code of Ordinances; provided, however that an art vendor may distribute a catalogue of his or her work.

(p)No performer or art vendor shall connect to electric outlets or power sources owned by the city or on private property, and must provide his or her own safe power sources, if any are required. Extension cords that traverse the city right-of-way are prohibited.

(q)Permit "A" holders are permitted to have one animal as part of their performance. Such animal is limited to a domesticated dog, domesticated cat, a bird with a wingspan no larger than 36 inches or tortoise with a shell no longer than 36 inches.

(r)Persons operating under Permit "B" shall not engage in performances of any kind, except for the creation of an original work of art.

(s)The licensing division may promulgate administrative rules to effectuate this section.

(t)No permit holder may actually or constructively possess any alcoholic beverages, nor be under the influence of same while conducting their business or performance.

(u)Palm fronds used by a permit holder shall be limited in length to three feet.

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ORDINANCE DESCRIPTION :

(v)Any permit holder who is a minor as defined in subsection 42-12(a) of the Code of Ordinances for the City of Key West shall abide by the provisions of subsection 42-12(b) and shall have a parent or legal guardian with them at all times while performing any activity under this chapter.

(w)Amplification in any form is prohibited.

(Ord. No. 05-02, § 4, 1-4-2005; Ord. No. 05-20, § 1, 8-2-2005; Ord. No. 11-07, § 4, 4-5-2011)

CORRECTIVE ACTION REQUIRED :