

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES ENTITLED "ENVIRONMENT," ARTICLE IV. ENTITLED "SOUND CONTROL" BY AMENDING SECTION 26-191, DEFINITIONS; AMENDING SECTION 26-192 TO AMEND AND CLARIFY UNREASONABLY EXCESSIVE NOISE PROHIBITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission recently passed amendments to the Sound Control ordinance to establish specific permissible sound limits in order to provide for the abatement, prevention and prohibition of excessive and unnecessary noise so as to protect the health, safety, and general welfare of the residents of the City of Key West.

WHEREAS, in formulating amendments to the sound control ordinances, City staff conducted measurements to determine the current baseline of sound in the City of Key West; and

WHEREAS, it was determined that there were areas outside the Core Commercial District which held entertainment licenses and operated similar to a number of properties in the Core Commercial District; and

WHEREAS, the City Commission desires to recognize the historic use of such properties where there has be little or no

impact to the surrounding neighbors based upon unreasonably excessive noise.

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

Section 1:

That Section 26-191 of the Code of Ordinances is hereby amended as follows:

Sec. 26-191. - Definitions.

Permitted property means a property that the City's licensing department determines has continuously held an entertainment license pursuant to Key West Code of Ordinances section 18-57 for at least the immediately preceding ten years and has had one or less violations of any existing or previously enacted sound control ordinance during that period.

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

Section 2: That Section 26-192 of the Code of Ordinances is hereby amended as follows:

Sec. 26-192. Unreasonably Excessive Noise prohibited.

(5) Notwithstanding the limitations for Residential or Commercial District properties above, any property that has been determined to be a permitted property shall be subject to the same regulations as those governing the Core Commercial District. To be deemed a permitted property, a property owner shall submit a written request to the City's licensing department and affirm that the property location for which they are applying has continuously held an entertainment license pursuant to Key West Code of Ordinances section 18-57 for at least the immediately preceding ten years and has had one or less violations of any existing or previously enacted sound control ordinance during that period. Upon confirmation by the licensing official that an applicant meets the requirements to be designated a permitted property, he or she shall issue written notice to the property owner and the code compliance division that the property so qualifies on the date indicated. A

permitted property shall lose its designation upon the finding of more than one violation of any sound control ordinance in any immediately preceding ten year period.

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 _____, 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.

Mayor Craig Cates	_____
Vice Mayor Mark Rossi	_____
Commissioner Teri Johnston	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____
Commissioner Tony Yaniz	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK