

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 110 OF THE CODE OF ORDINANCES ENTITLED "RESOURCE PROTECTION"; BY AMENDING SECTION 110-255 TO PROVIDE FOR PALM WEAVING PERMIT ISSUANCE PURSUANT TO SECTION 6-1 THROUGH 6-9; RESTRICTING THE METHODOLOGY OF COCONUT PALM TREE TRIMMING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it is the intent of the City Commission for the City of Key West to include palm frond weavers, who use any type of palm fronds in the creation and sale of art or crafts, within the Street Performer and Art Vendor Ordinance section of Chapter 6; and

WHEREAS, the purpose of the Tree Protection section of the Code of Ordinances is to protect and enhance the health, growth, and planting of trees in the city; and

WHEREAS, the practice of trimming the younger palm fronds of coconut palm trees have significantly impaired the health of coconut palm trees, which are economically, historically and aesthetically vital to the City of Key West; and

WHEREAS, regulating palm frond weavers under the Street Performer and Art Vendor Ordinance contained in Chapter 6 will create consistency as well as 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 Section 110-255 of the Code of Ordinances is hereby amended as follows*:

Sec. 110-255. Removal of Portions of Coconut Palm Trees; Permit Required for Sale

(a) *Prohibited acts.* No person shall cause the removal of one or more fronds, nuts, or fruit of or any portion of the trunk or root system of or otherwise deface or damage any coconut palm located upon city-owned property, city streets, or city rights-of-way. No person shall cause the removal of any frond that is located within 45 degrees of the center of the tree trunk located on private property.

(b) *Sale or distribution.* Any person who intends to sell or distribute coconut palm tree fronds or coconuts in any form on city streets, sidewalks or other public areas shall apply to the licensing division for a permit in

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

accordance with the rules and regulations contained in Sections 6-1 through 6-9 of the Key West Code of Ordinances. The permit holder shall display the permit at all times while doing business on city property. The permit holder shall also maintain on a daily basis, on a form provided by the city, a statement of the source of the palm fronds and/or coconuts, and a name and phone number of the private property owner who provided that source. There shall be a limit of five permits given ~~in any one quarter~~ per permit period as defined in 6-2, and the City Manager shall develop a lottery system for applicants. No permit shall be given to an applicant who intends to use or has been ~~convicted~~ found in violation of removing fronds or coconuts from city-owned trees or trees located on city property. The City Manager may revoke a permit upon evidence provided at a hearing of a permit holder's violation of this section or any provision of Sections 6-1 through 6-9. ~~The permit fee shall be \$10.00 per quarter.~~

(c) *Exceptions.* This section shall not apply to work conducted for a city purpose by contractors or by city employees or to state agencies performing planting, maintenance, or removal functions with proper authorization.

(d) *Enforcement; penalty.* ~~An alleged violation of this section shall be referred directly to the code enforcement special master. When the special master cannot secure compliance, the penalties provided by section 1-15 shall apply.~~ A person charged with violating any provision 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 or brought before the Special Magistrate under Ch. 162 of Florida Statutes.

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 _____, 2010.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2010.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2010.

Filed with the Clerk _____, 2010.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK