




## MEMORANDUM

---

**Date:** June 8, 2023

**To:** Honorable Mayor and Commissioners

**Via:** Albert P. Childress  
City Manager 

**From:** Jim Young  
Director of Code Compliance

**Subject:** Amending Chapter 6, titled Amusements and Entertainment, Article I Street Performers and Street Artists, Article III, titled Entertainment and Animal-Driven Vehicles; Entertainment Equipment, Section 6-117 Animal-Driven Entertainment Vehicles Prohibited, Section 6-146, Permit Required, Section 6-152 (c) Renewal. To amend the Street Performers and Street Artist application requirement. To allow Code Compliance to issue a Notice of Code Violation as an option to arrest for violations of Article III.

---

### **Introduction**

This measure proposes to amend Chapter 6, titled Amusements and Entertainment, Article I Street Performers and Street Artists and Article III, titled Entertainment and Animal-Driven Vehicles; Entertainment Equipment, Section 6-117 Animal-Driven Entertainment Vehicles Prohibited, Section 6-146, Permit Required, Section 6-152 (c) Renewal. To disallow person(s) to apply for a Street Performer or Street Artist permit that have been convicted of a felony against a person or a property within ten years preceding the date of the application. To allow Code Compliance to issue a Notice of Code Violation as an option to arrest.

### **Background**

While researching the penalties for violating unlawful deposits of oil, grease or other waste and obstructions it was discovered that Code Compliance could not cite the violator due to the ordinances stating violations shall be punishable as provided in section 1-15. Upon researching Volume One of the City's Code of Ordinances it was discovered that Code Compliance could not issue a notice of code violation in several sections of the Entertainment and Animal-Driven Vehicles ordinance due to the ordinances stating violations shall be punishable as provided in section 1-15. City Management as well as the Legal Department determined that those ordinances should be amended to allow both Code

Compliance and KWPD to cite violators. It was also discovered that in the Street Performer Street Artist ordinance there was no provision to prevent a person with a felony conviction from applying to obtain a permit to conduct sales and interactions with the public on City right of ways. The City has established in other ordinances the felony conviction language.

The first reading of this proposed amendment was at the May 16, 2023, City Commission meeting. During this meeting the City Commission made the following comments; Commissioner Kaufman requested a narrower definition of felonies for 2nd reading; Commissioner Carey suggested the time frame for a felony conviction be reduced from 10 years to 5 years; Mayor Johnston requested the conviction time frame be in line with other City ordinances.

**Sec. 2-871. - Background check of persons awarded lease of city-owned property, concession or franchise.**

(a) The police department shall promptly conduct a background check, using appropriate law enforcement procedures, of all persons who are being recommended for: (1) The award of a lease of city-owned property with annual rentals that will exceed \$100,000.00 and all extensions or renewals thereof; (2) The award of a sublease of city-owned property, where the master lease with the city has a total annual rental in excess of \$100,000.00 and all extensions or renewals thereof; and (3) The award of a concession or franchise agreement by the city, regardless of amount, and all extensions or renewals thereof. (b) If any such person is found by the police department to have been convicted of a felony within the past five years or found to have been convicted of a public entity crime and is then listed on the convicted vendor list, as established in F.S. § 287.133, the proposed lease or sublease, concession or franchise agreement or any extension or renewal thereof with such person shall not be executed by the city or, if it has been executed, it shall be subject to revocation and be voidable by the city commission after notice and hearing. Nothing in this section is intended to limit the application of F.S. § 287.133 as it relates to other city contracts not covered by this section.

Peddlers

**Sec. 18-576. - Required.**

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so. Each peddler permit shall be issued in the name of the individual applicant only, and shall not be issued in the name of any corporation, partnership, or business. A peddler permit is non-transferable.

(7) Applicants shall provide a NICS FBI criminal background check that has been performed within a month of making application. A conviction for a felony shall disqualify an applicant from receiving a permit.

**Sec. 70-706. - New applications/renewals and issuance of non-consensual tow permit; fees.**

(a) Permit.(c) The Division shall review and investigate each application/renewal of a non-consensual tow permit and shall deny any 2) Neither the applicant, nor any officer, director or partner of the applicant, nor any stockholder owning, holding, controlling or having a beneficial interest in five percent or more of the issued and outstanding stock of a corporate general partner of a partnership applicant, has been convicted of one or more felonies within the preceding five years.

Vehicle for Hire

**Sec. 78-92. - Requirements for issuance.**

4) Has not, within the ten years preceding the date of the application, been convicted of a felony against person or property.

Section 1-15 General penalty states.

(a) Except as provided in subsection (c) hereof, whenever in this Code of Ordinances section 1-15 is referred to as providing a penalty for violation, the violation shall be punishable by a fine of not more than \$500.00 or a term of imprisonment not to exceed 60 days or both a fine and term of imprisonment.

(b) All such violations may be enforced by notice to appear in the county court as provided by F.S. § 901.28 or for a threat to public health, safety and welfare by arrest as provided in F.S. § 901.15 (1), except where prohibited by law.

(c) Through section 86-11 hereof, a violation of a city zoning or land development regulation is deemed a civil infraction, unless such a specific regulation provides for criminal penalties. The special master of the city, under his or her authority to impose administrative fines and non-criminal penalties, may hear cases of alleged violations of the zoning or land development regulations.

### **Recommendation**

The City Manager's Office recommends the Mayor and Commission approve the resolution amending Chapter 6, titled Amusements and Entertainment, Article I Street Performers and Street Artists and Article III, titled Entertainment and Animal-Driven Vehicles; Entertainment Equipment, Section 6-117 Animal-Driven Entertainment Vehicles Prohibited, Section 6-146, Permit Required, Section 6-152 (c).

Exhibit A

### **Article I Street Performers and Street Artists**

#### **Sec. 6-2. - Permit required; application; appeal; fees.**

(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 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 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".

(h) No applications, including new and renewals will be accepted if applicant has, within the ten years preceding the date of the application, been convicted of a felony against person or property.

(i) Applicant will incur the responsibility and costs for the background check.

### **ARTICLE III. - Entertainment and Animal-Driven Vehicles; Entertainment Equipment**

#### **DIVISION 1. – Generally**

##### **Sec. 6-117. - Animal-driven entertainment vehicles prohibited.**

No person shall offer for use or use any animal-driven entertainment vehicle for the purpose of transporting passengers upon a public street or right-of-way. Violations of this section shall be punished as provided in section 1-15; and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.

#### **DIVISION 2. - Permit**

##### **Sec. 6-146. - Required.**

No person shall offer for use or use any entertainment vehicle for the purpose of transporting passengers upon a public street or right-of-way or rent or lease entertainment equipment, unless the person holds a valid entertainment vehicle or equipment permit and fully conforms to the terms of this article. Violations of this section shall be punished as provided in section 1-15; and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.

##### **Sec. 6-152. - Renewal.**

(a) The holder of an entertainment vehicle or equipment permit may obtain a renewal of the permit each year on or prior to October 1 by applying to the licensing office and submitting the following information:

- (1) Any change in the operator information listed on the original or any subsequent renewal application.
- (2) Evidence of insurance.
- (3) A renewal fee of \$187.50 per vehicle or \$250.00 per entertainment equipment business if paid prior to October 1, with a penalty of \$25.00 if paid after October 1.
- (4) Any other applicable requirements.

(b) Any entertainment vehicle or equipment permit not renewed within 30 days of its expiration on September 30 shall be void and of no further use or effect whatsoever. At any time that the number of outstanding entertainment vehicles permitted falls below 20, the city manager shall within 30 days of availability distribute, on a random basis among any applicants, a sufficient number of permits to ensure that the total number of outstanding entertainment vehicles permitted equals 20.

(c) Violations of this section shall be punished as provided in section 1-15- and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.

(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)