

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 6-4 "PERMIT REGULATIONS; PROHIBITIONS" TO PROVIDE FOR A PROHIBITION OF ART VENDORS TO ESTABLISH THEIR WARES ON CITY SIDEWALKS WITHIN SEVENTY-FIVE FEET OF STOREFRONTS SELLING LIKE GOODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West finds that the existence of sidewalk art vendors under the provisions of this section have established themselves near established storefronts selling like goods at a much lower price; and

WHEREAS, the City Commission for the City of Key West finds that there is a constitutionally protected ability to protect the business interests of established businesses in the higher rent tourist district, which coincides with the established Artisan and Performer Corridor and that the amendments contained herein are justifiable time, place and manner regulations of free speech under the First Amendment; and

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. 6-4. - 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 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 "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.

(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.

(x) No "B" permit holder for art vending may establish themselves on the city right of way in the Artisan and Performer Corridor as described in Sec. 6-1, within seventy-five (75) feet of an established storefront of a business selling like goods.

*(Coding: Added language is underlined; deleted

language is ~~struck through~~.)

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