

ORDINANCE NO. 12-30

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES ENTITLED "ENVIRONMENT" BY AMENDING SECTION 26-193 ENTITLED "EXCEPTIONS" TO CLARIFY AND UPDATE EXEMPTIONS TO THE SOUND CONTROL ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission finds that particular situations exist that often require exceptions to the noise control ordinance for the benefit of the residents and visitors to the City of Key West;

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

Section 1: That Section 26-193 of the Code of Ordinances is hereby amended as follows\*:

Sec. 26-193. Exceptions.

The prohibitions contained in this article shall not apply to the following:

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

(3) Construction/demolition.

(A) Sound levels produced from tools and equipment in commercial construction, demolition, drilling, or reasonably similar activities. However, such sound levels are limited to the hours of 8:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. The tools and equipment must be muffled and maintained equal to the functional standards of the industry. No exceptions contained in this subsection shall apply on Thanksgiving Day, Christmas Day and New Year's Day.

(B) The City Commission by resolution may extend the time limitations for the activities referenced in subparagraph (A) above upon a finding of the following:

- i. The applicant for the extended exception has submitted a written request detailing the expanded hours sought, what activities will occur during such hours, the duration of the exception, the necessity of the exception and any mitigation measures to be employed to minimize the impact of noise created by the activities;

ii. The extent of noise generated is outweighed by the public benefit of the activity.

(C) Notice of the city commission's proposed action on construction/demolition noise control waiver shall be mailed prior to the meeting at which the matter is to be considered to all property owners and occupants of property located within a 100-foot radius of the proposed construction/demolition. The applicant shall pay for the cost of the notices.

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(11) Sound created by safety and protective devices, emergency equipment, including but not limited to emergency standby or backup equipment, necessary in the interests of the health, safety and welfare of the community.

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 5th day of September, 2012.

Read and passed on final reading at a regular meeting held this 18th day of September, 2012.

Authenticated by the presiding officer and Clerk of the Commission on 19th day of September, 2012.

Filed with the Clerk September 19, 2012.

  
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CRAIG BATES, MAYOR

ATTEST:

  
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CHERYL SMITH, CITY CLERK