

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 6, OF THE CODE OF ORDINANCES, ENTITLED " AMUSEMENTS AND ENTERTAINMENT" BY AMENDING SECTION 6-2, 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 AND TO HAVE THE APPLICANT PAY FOR THE CRIMINAL BACKGROUND CHECK. AMENDING SECTION 6-117 ANIMAL-DRIVEN ENTERTAINMENT VEHICLES PROHIBITED, AMEND ENFORCEMENT PROVISIONS BY PROVIDING AUTHORITY TO ADDRESS VIOLATIONS TO THE SPECIAL MASTER PURSUANT TO SECTION 2-633 AND 2-634; SECTION 6-146, PERMIT REQUIRED, TO AMEND ENFORCEMENT PROVISIONS BY PROVIDING AUTHORITY TO ADDRESS VIOLATIONS TO THE SPECIAL MASTER PURSUANT TO SECTION 2-633 AND 2-634; SECTION 6-152 (C) RENEWAL TO AMEND ENFORCEMENT PROVISIONS BY PROVIDING AUTHORITY TO ADDRESS VIOLATIONS TO THE SPECIAL MASTER PURSUANT TO SECTION 2-633 AND 2-634; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to amend section 6-2, of the Code of Ordinances, to disqualify applicants for a Street Performer and Street Artist permits if within the ten years preceding the date of the application, they have been convicted of a felony ~~against person or property~~ and require the applicant(s) to incur the cost for

a criminal background check; and

WHEREAS, the City of Key West finds that it is necessary to amend section 6-117 of the Code of Ordinances, to allow Code Compliance to issue a Notice of Code Violation in instances of any animal-driven entertainment vehicle transporting passengers upon a public street or right-of-way; and

WHEREAS, the City of Key West finds that it is necessary to amend section 6-146 of the Code of Ordinances, to allow Code Compliance to issue a Notice of Code Violation in instances where a person offers for use or uses 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

WHEREAS, the City of Key West finds that it is necessary to amend section 6-152 (C) of the Code of Ordinances, to allow Code Compliance to issue a Notice of Code Violation in instances to include 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.

WHEREAS, amendments to sections 6-2, 6-117, 6-146 and 6-152 (C) of the Code of Ordinances will 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 6-2 of the Code of Ordinances is hereby amended as follows:

**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.

Section 2: That Section 6-117 of the Code of Ordinances is hereby amended as follows:

**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

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\*(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.)

passengers upon a public street or right-of-way. Violations of this section shall be punished as provided in section 1-15-~~15~~ and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.by amended as follows:

Section 3: That Section 6-146 of the Code of Ordinances is hereby amended as follows:

**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-~~15~~ and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.

Section 4: That Section 6-152 (C) of the Code of Ordinances is hereby amended as follows:

**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.~~

Section 5: 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 6: 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 7: 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 \_\_\_\_\_, 2023.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Filed with the Clerk \_\_\_\_\_, 2023.

Mayor Teri Johnston \_\_\_\_\_

Vice Mayor Sam Kaufman \_\_\_\_\_

Commissioner Lissette Carey \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

Commissioner Billy Wardlow \_\_\_\_\_

Commissioner Jimmy Weekley \_\_\_\_\_

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TERI JOHNSTON, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK