ORDINANCE NO. 06- 11

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES ENTITLED "AMUSEMENTS AND ENTERTAINMENT" BY ADDING ARTICLE IV ENTITLED "KEY WEST BOTANICAL GARDEN"; BY ADDING SECTION 6-200 TO ESTABLISH REGULATIONS FOR THE OPERATION OF THE BOTANICAL GARDEN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West, through a volunteer, not-for-profit organization, has operated a small botanical garden in the Stock Island section of the city; and

WHEREAS, in 2005, the City acquired abutting Monroe County land known as the Botanical Garden Addition through grant funds of the Florida Communities Trust (FCT) and the Monroe County Land Authority; and

WHEREAS, FCT-approved plans are in place to expand the scope and operation of the botanical garden under expert management; and

WHEREAS, the City Commission finds that the establishment of regulations for the operation of the botanical garden would promote the health, safety and welfare of the citizens of Key West;

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

Section 1: That Article IV, entitled "Key West Botanical Garden" is hereby added to the Code of Ordinances.

Section 2: That Section 6-200 is hereby added to the Code of Ordinances as follows:

Sec. 6-200. Botanical garden.

(a) There is hereby established the Key West Botanical Garden, located on 12.35 acres at 5210 College Road, Key West.

(b) The botanical garden shall be operated under lease on a not-for-profit basis. In the event the city of Key West shall determine to sell or otherwise convey the property underlying the botanical garden, the purchaser shall operate the garden consistent with grants obtained by the city for the initial purchase of the "Botanical Garden Addition." Revenues generated from the botanical garden shall be invested in the continued operation, maintenance and development of the garden.

(c) The prohibition of section 18-87(a) of the code of ordinances shall not apply to the sale, possession or drinking of alcoholic beverages upon the premises of the botanical garden. This exception shall apply during special events only.

(d) The responsibilities of the Key West Tree Commission with respect to the botanical garden, as set forth in chapter 110 of the code of ordinances, are hereby delegated to a committee that shall serve as a liaison between the Tree Commission and the botanical garden operator. The committee shall make all permitting decisions with regard to botanical garden applications for planting, transplanting and removal of trees. The committee shall be established and defined in the lease between the City and the operator of the botanical garden.

(e) Notwithstanding subsection (d), the operator of the botanical garden remains subject to the regulations for the management and maintenance of its trees and vegetation, as set forth in chapter 110 and other applicable regulations of the city of Key West. At a minimum, the operator shall employ the arboricultural standards described in chapter 110 of the code of ordinances.

(f) The botanical garden shall be open to the public. The operator of the garden shall establish hours of operation that balance public access with the protection of the vegetation.

Section 3: 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 4: 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 5: 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 16 day of May, 2005.

Read and passed on final reading at a regular meeting held this 6 day of June, 2006.

Authenticated by the presiding officer and Clerk of the Commission on 7 day of June, 2006.

Filed with the Clerk June 7, 2006.

Harry Bethel

HARRY BETHEL, MAYOR PRO TEM

ATTEST:

Cheryl Smith

CHERYL SMITH, CITY CLERK