

ORDINANCE NO. 12-11

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES" BY CREATING SECTION 70-130 ENTITLED "NO LODGING IN VEHICLES" TO PROHIBIT LODGING IN VEHICLES LOCATED ON CITY RIGHTS OF WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it has been observed that persons have been lodging in vehicles on public streets and property, and;

WHEREAS, lodging or camping in vehicles constitutes a hazard to the health and safety of the residents visitors of the City of Key West as well as the environment, and;

WHEREAS, tourism is the primary industry for the City of Key West and the act of unlawful lodging or camping in vehicles have a significant negative impact that creates an adverse effect on tourism and the environment, and;

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

Section 1: That section 70-130 of the Code of Ordinances is hereby created as follows\*:

Sec. 70-130- No Lodging in Vehicles.

Except as provided for in Sections 70-464 108-683, It shall be unlawful for any person to lodge in, on or about any automobile, truck, trailer, camping or recreational vehicle or similar vehicle in any public street, public park area, public way, right-of-way, parking lot or other public property within the limits of the City of Key West.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed 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3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

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

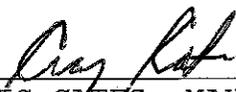
Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 15th day of May, 2012.

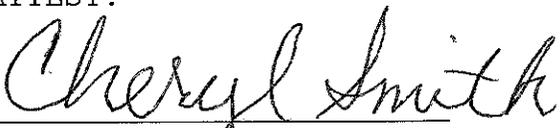
Read and passed on final reading at a regular meeting held this 5th day of June, 2012.

Authenticated by the presiding officer and Clerk of the Commission on 5th day of June, 2012.

Filed with the Clerk June 6, 2012.

  
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CRAIG CATES, MAYOR

ATTEST:

  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

OFFICE OF THE CITY ATTORNEY



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## THE CITY OF KEY WEST

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### EXECUTIVE SUMMARY

To: The City Commission for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: May 7, 2012  
RE: Creation of 70-130 prohibiting lodging in vehicles.

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Mr. Mayor and Commissioners:

Background:

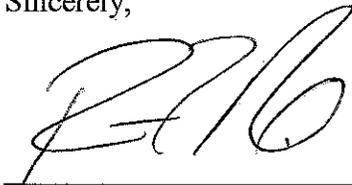
This proposal creates a new section of the Code of Ordinances titled Sec. 70-130 "No Lodging in Vehicles" to address a growing concern of the KWPD where cars, vans, trucks and RV's are being used to lodge or camp on the public rights of way. This issue was tested in the Hershey v. City of Clearwater case at the federal 11<sup>th</sup> Circuit Court of Appeals wherein a summary judgment in favor of the City of Clearwater was affirmed. In that case, Clearwater passed an ordinance banning lodging in any vehicle which is has the same design of the ordinance for your consideration here. I feel confident that what you have before you is a legally sound proposal given the rule of law in the federal 11<sup>th</sup> Circuit (which includes FL) concerning the lack of constitutional protections afforded to this type of activity. Exceptions are mentioned to the provisions contained in 70-464 and Sec. 108-683 which provide for RVs used for charitable events and the active loading and unloading of RVs, but still do not allow for lodging on city rights of way.

Options:

1. To pass the proposed ordinance revision, thereby making lodging in any vehicle while on city rights of way against city ordinances and making it much clearer for enforcement purposes;
2. To defeat the proposed revision and the existing inadequate ordinance will continue to be enforced.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Ramsingh', written over a horizontal line.

Ron Ramsingh

Assistant City Attorney