ORDINANCE NO. 07-14

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING SECTION 122-418 "CONDITIONAL USES" IN THE ~~HRCC-1 DUVAL STREET GULFSIDE~~ GENERAL COMMERCIAL (CG) ZONING DISTRICT; CREATING DIVISION 13 "TATTOO ESTABLISHMENTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission, therefore, intends to maintain ~~HRCC-1~~ CG, as the zoning district where tattoo establishments are a conditional use; provided, however, that the City Commission finds that the potential proliferation of tattoo establishments in the ~~HRCC-1~~ CG zoning district~~s~~ necessitates the regulation~~s~~ of the tattoo establishments; and

WHEREAS, the City's 2005 Evaluation and Appraisal Report identifies a mix of people who converge in the City's commercial areas: residents, seasonal residents, overnight tourists, event visitors, day tourists (e.g. cruise ship passengers), families with minor children, residents of the Keys north of Key West, a maritime population and a military population; and

WHEREAS, the City Commission finds that these populations, with their diverse interests, are confined to an island with an area of approximately two miles by four miles, leaving little opportunity to shield people, including minor children, from uses that they might find harmful to their health and well-being; and

WHEREAS, the City Commission finds that various diseases can be spread by improper tattooing;

WHEREAS, the City Commission finds that the proposed tattoo

Added language is underlined; deleted language is struck through.

regulations conform to and should be construed consistently with Chapters 458 and 459, or 466, Florida Statutes; and

WHEREAS, the Key West Planning Board at its April 30, 2007, found that the proposed tattoo regulations are consistent with the Key West Comprehensive Plan; and

WHEREAS, the City Commission finds that regulating the location of tattoo establishments would serve to promote the health, safety and welfare of the citizens of Key West, and

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

Section 1: That section 122-~~688~~ 418 of the Code of Ordinances is hereby amended as follows:

Sec. 122-~~688~~ 418. Conditional Uses.

Conditional uses in the ~~HRCC-1~~ ~~Duval Street~~ CG gulfside district are as follows:

~~18~~ 20. Tattoo Establishments (See Division 13 or this Article)

Section 2: Article 13 of the Code of Ordinances shall be created to read as follows:

Section 122- . Tattoo establishments - Purpose.

a. The purpose of this division is to regulate tattoo establishments for the health, safety, and welfare of the residents and visitors of the City of Key West; and to establish reasonable regulations for tattoo establishments to be located in Key West, in order to eliminate or to reduce secondary effects of such

establishments upon both residents and visitors. These regulations shall be construed consistently with Chapters 458 and 459, or 466, Florida Statutes.

Section 122- . Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Tattooing means the creation of an indelible mark, figure, word, or graphic illustration upon a human body by the insertion of pigment under the skin or by the production of scars. This definition does not include the application of henna tattoos.

(2) Tattoo establishment means any commercial activity, whether conducted intermittently or full time, that involves the application of permanent tattoo material.

(3) Tattoo artist means a person that applies an indelible mark, figure, work, or graphic by the insertion of pigment under the skin or by the production of scars. This term shall also apply to body illustrations.

Section 122- . General Regulations.

(a) The purpose of this section is to limit the number of tattoo establishments within the corporate boundaries of Key West in order to address their adverse secondary effects. The city commission finds the potential and actual adverse secondary effects to be: The potential deterioration of a preserved historic district; an increase in the incidence of disease; and land use incompatibilities.

(b) There are no tattoo establishments in the City of Key West; therefore, all tattoo establishments shall be established in compliance with all city regulations.

(c) All ~~body art~~ tattooing shall be performed inside the principal structure.

(d) All tattooing shall be performed by a person licensed to practice medicine or dentistry under Chapters 458 and 459 or Chapter 466, Florida Statutes or by a person under his general supervision. As used in this section, the term "general supervision" shall mean the supervision of the tattooist by a supervising physician, osteopathic physician, or dentist, which supervision shall not require the physical presence of the supervisor when procedures are performed, but shall require the following items:

(1) The supervising physician, osteopathic physician, or dentist, initially upon assuming duties as the supervisor and semi-annually thereafter, shall review and inspect the techniques, procedures, and equipment utilized by the tattooist in the performance of tattooing.

(2) The supervising physician, osteopathic physician, or dentist shall provide ~~quarterly~~ semi- annual training for the tattooist in the areas of infection control, sterilization, and emergency procedures.

(3) The supervising physician, osteopathic physician, or dentist and the tattooist shall develop jointly written

procedures regarding the medical condition for individuals to receive tattoos, treatment of routine minor problems resulting during or from tattooing, and detailed procedures to be followed in the event of emergency situations developing during the performance of or as a result of tattooing. These written procedures will be maintained in a readily available location on the premises of the tattooist and a copy shall be maintained by the supervising physician, osteopathic physician, or dentist. Such written procedures will be readily available for inspection and review by agents of any or all of the following: the agency for health care administration, the board of medicine, the board of osteopathic medical examiners, the board of dentistry, and the city license officer.

(e) A person certified in the use of a defibrillator, CPR, First Aid, and Blood Borne Pathogens shall be present on-site during the time tattooing is performed. All certificates must be prominently displayed in the establishment and copies of all certificates shall be submitted each year at the time of city licensing renewal.

(f) A Florida Department of Health (FDOH) biomedical waste permit shall be prominently displayed at all time.

(g) All biomedical waste shall be disposed of in compliance with the FDOH permit.

(i) Smoking shall be prohibited in the tattoo establishment.

(j) Food or drink shall not be permitted in the work area.

(k) Autoclave equipment shall be spore tested monthly or every 40 hours of use, whichever occurs first. All testing and maintenance records shall be available for inspection.

(m) There shall be a separate sink located away from restroom facilities for all tattoo establishment personnel for hygiene purposes.

(n) Floor area in the tattoo application work area shall be a sealed hard surface tile, concrete, etc.)

(o) The removal of tattoos shall be prohibited in any tattoo establishment.

Section 122- . Licensing.

(a) All city licensing approvals shall be provided to an owner of a tattoo establishment not later than 45 days from the date of the submittal of a complete application for a business tax receipt and the applicant's compliance with all building codes.

(b) In addition to the business tax set forth in section 66-109(1), the owner of a tattoo establishment shall pay to the city, on or before each October 1st, an annual fee of ~~$2,500.00~~ $1,000.00 to defray the expense of regulation

(c) Any applicant aggrieved by a decision of the licensing official, either by the choice of tattoo classification(s) or by the refusal to license a business as tattoo establishments, may appeal the decision to a special master (other than the code enforcement special master) appointed by the city commission. The appeal shall be made in writing not later than ten days from the

date the decision of the licensing official is rendered to the applicant. The special master shall conduct a hearing at the earliest mutually convenient time, giving notice and opportunity to be heard to the applicant. The applicant may be represented by counsel. The special master shall issue a written decision within ten days of the hearing. The decision of the special master shall constitute final administrative agency action.

Section 122- . Separation requirements.

(a) The proposed site shall be at least ~~one hundred fifty (150) feet~~ ~~three hundred (300)~~ five hundred (500) feet from any other such use.

(b) The proposed site shall be at least ~~two hundred fifty (250)~~ five hundred (500) feet from the nearest house of worship, school (public or private), child care center, library, or public park. The beach area adjacent to the Atlantic Ocean shall not be considered a public park for the spacing criteria.

(c) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed tattoo establishment to the other parcel (as listed above)in subsection (a) and (b).

Section 122- . Additional policies and procedures.

(a) Customer shall present identification.

(b) Customer shall sign a consent form.

(c) Customer shall not be visibly impaired by any substance, intoxicated or under the influence of any substance and shall sign

a waiver attesting to such.

(d) Records for each customer shall be kept for five years

(e) Customer shall received oral and written instructions required for the receiving of and care of each tattoo.

(f) Tattoo artist shall use only single-use disposable ink containers.

(g) Tattoo artist shall only use sterile disposable one-time use needles.

(h) All artists shall wear medical grade gloves.

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 there from 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, and upon final approval by the Florida Department of Community Affairs.

Read and passed on first reading at a regular meeting held this 7 day of August, 2007.

Read and passed on final reading at a regular meeting held this 18 day of September, 2007.

Authenticated by the presiding officer and Clerk of the Commission on 20 day of September, 2007.

Filed with the Clerk September 20, 2007.

MORGAN McPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Added language is underlined; deleted language is struck through.