

ORDINANCE NO. 07-06

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES ENTITLED "ENVIRONMENT" BY AMENDING ARTICLE III, "LITTER", SECTION 26-164 "PRESUMPTIONS AS TO DISCARDED SOLID WASTE; PROCEDURE FOR REMOVAL OF CERTAIN SOLID WASTE; ENFORCEMENT, PENALTIES, LIEN" TO PROVIDE FOR THE IMMEDIATE REMOVAL OF IMPROPERLY DISCARDED SOLID WASTE; FURTHER AMENDING SECTION 26-164(C) TO PROVIDE FOR ALTERNATIVE ENFORCEMENT MEASURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission desires to ensure the health, safety and welfare of its resident and visitors by effectively managing waste and litter in the City of Key West;

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

Section 1: That Section 26-164 of the Code of Ordinances is hereby amended as follows\*:

**Section 26-164 Presumptions as to discarded solid waste; procedure for removal of certain solid waste; enforcement, penalties, lien.**

- (a) Any solid waste discarded or deposited in violation of this article or chapter 58 which can be established to have been in the possession of ownership of any person

shall be presumed to have been discarded or deposited by such person. This presumption may be rebutted by competent evidence or testimony establishing that such item of solid waste had left the ownership or possession of such person prior to being deposited or discarded in violation of this Code.

- (b) Any solid waste placed, with or without a container, on city property in violation of this article or chapter 58 shall be presumed to have been generated by the owner or occupant of the property nearest the location where it is found and shall become the property of the city or its franchise hauler for purposes of removal. No person shall have a claim of action for theft or conversion of property against the city or its agent for removal of the property.
- (c) The city shall verbally notify the responsible party, including the property owner and any tenants, that the solid waste referred to in subsection (a) or (b) of this section must be removed for proper disposal upon demand. ~~within 24 hours.~~ If the solid waste is not so removed,

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

the city, through its agents, may issue a notice to appear in county court pursuant to article VI of chapter 2 ~~and~~ or a notice to appear before the code enforcement special master. ~~‡~~In addition to any other legally permissible remedies, the city may remove the solid waste and impose upon the property owner and tenants, jointly and severally, an administrative charge for the actual costs incurred in the disposal of the solid waste, including any tipping fees actually paid. The city may place a lien on the subject property for such administrative charge, and such lien may be foreclosed upon in accordance with provisions of the state statutes.

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.

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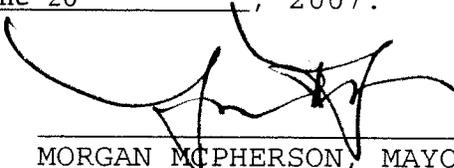
Section 4. This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 5 day of June, 2007.

Read and passed on second reading at a regular meeting held this 19 day of June, 2007.

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

Filed with the Clerk June 20, 2007.

  
MORGAN MCPHERSON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK