

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PROVIDING FOR A REFERENDUM TO DETERMINE WHETHER THE ELECTORATE SUPPORT AN EXCEPTION TO THE CURRENT ORDINANCES PROHIBITION ON NUDITY TO ALLOW FOR A CLOTHING OPTIONAL BEACH WITHIN THE BOUNDARIES OF THE CITY OF KEY WEST; DIRECTING THE CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR OCTOBER 6, 2009; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Key West City Code of Ordinances 42-9 prohibits nudity in a public place; and

WHEREAS, section 42-9 specifically provides "No person shall sunbathe, bathe, wash, or swim in any bay, lake, pond, pool, bight, ocean, gulf, beach or public place within the city, being in a state of nudity or insufficiently clothed to prevent improper exposure of his person."; and

WHEREAS, the City Commission desires to submit to the electorate the question of whether the City of Key West should establish an exception to section 42-9 to allow for the establishment

of a clothing optional beach in an area set apart for that purpose as determined by the City Commission;

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

Section 1: That a referendum to determine the electorate's desire to create an exception to Key West Code of Ordinances section 42-9 to allow for a clothing option beach shall be held on October 6, 2009.

Section 2: That the question appearing on the ballot shall be titled: "Referendum - supporting an exception to the nudity prohibition to allow for a clothing optional beach."

Section 3: That the ballot question shall be worded as follows:

"Should City Code of Ordinances section 42-9 be amended to provide an exception to the prohibition against nudity, which would allow for a clothing optional beach in an area so designated by the City Commission?"

_____ Yes

_____ No

Section 4: That the City Clerk is hereby authorized and directed to take all necessary and proper action to place this question on the ballot of October 6, 2009, including the providing of notice of the election in accordance with law.

Section 5: The referendum ballot question is solely advisory and a non-binding measure, but the answer to the question receiving the majority of the qualified electors' votes shall be considered the answer preferred by the electors.

Section 6: 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 7: 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 8: 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 _____ 2009.

Read and passed on final reading at a regular meeting held this _____ day of _____ 2009.

Authenticated by the presiding officer and Clerk of the Commission on ___ day of _____, 2009.

Filed with the Clerk _____, 2009.

MORGAN MCPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK