

ORDINANCE NO. 10-10

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, AMENDING CHAPTER 108 OF THE CODE OF ORDINANCES ENTITLED "PLANNING AND DEVELOPMENT" BY AMENDING ARTICLE X PART B, LAND DEVELOPMENT REGULATIONS, BUILDING PERMIT ALLOCATION AND VESTED RIGHTS, DIVISION 1; AMENDING SECTION 108-995 PERTAINING TO RENEWAL OF ALLOCATIONS; AMENDING 108-996 PERTAINING TO BENEFICIAL USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the Planning Department initiated proposed amendments to the ordinance to address concerns raised by the Department of Community Affairs and city staff; and

WHEREAS, pursuant to Section 90-522, the Planning Board held a noticed public hearing on February 18, 2010, where, based on the consideration of recommendations by the

city planner, city attorney, building official and other information, recommended approval of the proposed amendments with modifications; and

WHEREAS, the City Commission held a noticed public meeting on ~~April 6, 2010~~ May 4, 2010, and a second meeting on May 18, 2010, and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances; and

WHEREAS, the City determined that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

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

Section 1. That section 108-995 of the Code of Ordinances is hereby amended as follows*:

Sec. 108-995. Reporting Requirements and Adjustments in residential allocation schedule.

The Administrative Official will provide an annual report to the Planning Board and City Commission providing the results of tracking and monitoring requirements and recommendations for any changes in the allocation by structure type or intended use. The annual report shall track all inputs to the system, per Section 108-994, as well as allocations to the system by structure and use type.

The table in section 108-994 illustrating the allocation of building permits by structure type shall be subject to evaluation by the city commission annually and the allocation by structure type may be adjusted to accommodate shifts in supply and demand factors. However, under no circumstances will the allocations for affordable housing constitute less than 30% of the total ESFU available for allocation since 1990, nor shall the transient unit allocation exceed 25% of the ESFU available

[*(Coding: Added language for first reading is underlined; deleted language is ~~struck through~~. Added language for second reading is double underlined; deleted language is ~~double struck through~~.)

for allocation since 1990. Because transient allocations have exceeded 25% of the total ESFU, no further new transient allocations will be made under this system. ~~Provided, however, that the City shall reserve a minimum number of units for beneficial use claims as a first priority in unit reservation and allocation of remaining allocations shall be in accordance with dictates as specified in the Comprehensive Plan.~~ Provided, however, that the City shall reserve a minimum number of units for beneficial use claims. A determination of the minimum number of units shall be based upon available data illustrating parcels potentially subject to relief pursuant to section 108-998. Remaining units shall be allocated in accordance with the Comprehensive Plan and land development regulations.

Section 2. That section 108-996 of the Code of Ordinances is hereby amended as follows:

Sec. 108-996 Period of Allocation

Allocations other than those granted for beneficial use pursuant to Section 108-998 shall be for a one year period during which time a building permit must be obtained, unless a longer period is approved by resolution as part of a development plan, conditional use or development agreement approval. A single one year renewal

of an allocation ~~may~~ shall be granted by the Administrative Official prior to the expiration of the allocation. One extension for a period of 12-months ~~may~~ shall be granted by the Planning Board provided that the applicant makes application prior to the expiration of the allocation and demonstrates reasonable cause for the extension. No further extensions can be granted. ~~Allocations for beneficial use pursuant to Section 108-998 shall be for a period of five years during which time a building permit must be obtained. A single two year extension of a beneficial use allocation may be granted by the Administrative Official prior to the expiration of the allocation. Unused units will be returned to the system for reallocation.~~¹ Allocations for beneficial use pursuant to Section 108-998 shall be for a period of two years during which time a building permit must be obtained. A single two year extension of a beneficial use allocation shall be granted by the Administrative Official prior to the expiration of the allocation. Unused units will be returned to the system for reallocation.

Section 3: Severability. If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any

¹ Language deleted per DCA Final Order No. DCA09-OR-251

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. Effective Date. 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 approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this 4th day of May, 2010.

Read and passed on final reading at a regular meeting held this 18th day of May, 2010.

Authenticated by the presiding officer and Clerk of the Commission on 4th day of August, 2010.

Filed with the Clerk on August 4, 2010.


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK