

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 108 OF THE CODE OF ORDINANCES, ENTITLED "PLANNING AND DEVELOPMENT" BY AMENDING SECTION 108-991 - "DEVELOPMENT NOT AFFECTED BY ARTICLE," TO PROVIDE THAT UNITS DETERMINED TO EXIST PRIOR TO APRIL, 2010, MUST HAVE BEEN PERMISSIBLE UNDER CURRENT OR PREVIOUS ZONING REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to clarify that every lawful unit determined pursuant to section 108-991 of the code of ordinances must be legally permissible under current or former City zoning requirements; and

WHEREAS, an amendment to section 108-991 of the Code of Ordinances will promote the welfare of the citizens and visitors of the City of Key West.

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

Section 1: That Section 108-991 of the Code of Ordinances is hereby amended as follows*:

Sec. 108-991. - Development not affected by article.

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

(1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of residential dwelling unit stock.

(2) Redevelopment or rehabilitation which replaces but which does not increase the number of dwelling units above that existing on the site prior to redevelopment or rehabilitation.

(3) Units determined to have been in existence at the time the April 1, 2010, census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

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

a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;

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Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The city planner's decision shall be rendered to the department of economic opportunity for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the city planner are presumed to be lawfully established per chapter 122, Article II, nonconformities, if the additional following requirements are met:

a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and

b. Fees: All back fee payments shall be paid current and in full, from the date determined to be the established date of the unit. All impact fees shall be paid in full for units determined to have been established after the implementation of the Impact Fee Ordinance (January 1, 1985).

c. Occupational license with the city is updated, and street addresses are assigned commensurate with the updated unit count.

d. Applications received after February 23, 2017 must demonstrate that ~~Any~~ the unit sought to be established hereunder is or has been a ~~must have been~~ legally permissible use under the current or any former zoning requirements of the applicable district in which the unit is located. Transient units which meet the criteria in this subsection will be licensed by the city.

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.

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

by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2017.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2017.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2017.

Filed with the Clerk _____, 2017.

Mayor Craig Cates	_____
Commissioner Sam Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK