

OFFICE OF THE CITY ATTORNEY
Shawn D. Smith, City Attorney
Ronald J. Ramsingh, Chief Asst. City Attorney
Nathalia Mellies, Assistant City Attorney



PHONE: (305) 809-3770
FAX: (305) 809-3771
EMAIL: cityattorney@cityofkeywest-fl.gov

THE CITY OF KEY WEST

1300 WHITE STREET
KEY WEST, FLORIDA 33040

To: City Commission
Through: Shawn D. Smith, City Attorney
From: Ronald J. Ramsingh, Chief Assistant City Attorney
Meeting Date: July 6, 2022
Agenda Item: **Text Amendment of the Land Development Regulations**– An Ordinance to the City Commission amending Chapter 122 of the Land Development Regulations, titled “Zoning”, Article V, titled “Supplementary District Regulations”, by adding Division 15. – Short-Term Rentals.

Action Statement:

The proposed ordinance to amend the City’s Land Development Regulations is designed to preserve the current long-term permanent housing stock amid the limited supply when compared to the current demand by capturing current, lawfully licensed, non-transient rentals and creating a regulatory permit.

Background:

There are only 2 categories of residential rental tenancies in the city; transient (less than 30 days or 1 calendar month) and the second category is everything else (greater than or equal to 30 days or 1 calendar month). The State of Florida has preempted the regulation of “transient” or “vacation” rentals in F.S. 509.032 which are defined by the state as being less than 30 days or 1 calendar month. However, in F.S. 509.032(a)&(b), the city’s transient regulations are exempted from preemption since they existed prior to 2011.

There are currently 2,509 licensed non-transient rental business tax receipts (BTRs) throughout the city in nearly all zoning districts. On May 3, 2022, the Commission directed the Legal Department to craft a regulation to address the non-transient rentals. This proposal is modeled after the regulations that were adopted by the City of Miami Beach.

The proposed ordinance to amend the City’s Land Development Regulations is an essential part of an effort to promote and preserve current long-term permanent housing stock. Currently, permanent housing is a major concern in Key West. Due to extremely high property values, limited land on which to build, and a significant number of short-term rentals, all of which have negatively affected the permanent housing supply, many residents are finding it difficult to afford to rent or buy a home in Key West.

Additionally, the city recognizes that the demand for long-term permanent housing stock exceeds the supply. These factors, coupled with the finite nature of BPAS allocations, will only exacerbate an already critical situation. The proposed ordinance to amend the City's Land Development Regulations is an effort to implement the Comprehensive Plan Goals, Objectives, and Policies of the City of Key West more effectively while also attempting to preserve the current long-term permanent housing supply and our residential neighborhoods.

The highlights of the ordinance are:

- There is a new regulatory permit system that requires residential rental properties that are rented for a period of time that is equal to or greater than 30 days or one calendar month up to 6 months to have a regulatory permit/medallion.
- Properties that had a valid non-transient BTR on May 5, 2022 will be eligible for a permit.
- Applications must be submitted to the Licensing Division within 30 calendar days of the effective date of the ordinances.
- Properties will require a 24-hour agent to address complaints
- A medallion will be required to be mounted on the outside of the residence.
- Property owners will be required to have valid Florida Dept of Revenue sales tax number(s).
- A satisfactory fire marshal inspection for life safety, ingress and egress, if required by the State of Florida.
- Conformance with Florida Building Code regulations for occupancy.
- Permits are transferrable, but only from zoning districts where transient rentals are not permitted, to zoning districts where transient rentals are permitted. Transfers are reviewed and approved by the Planning Board.
- Fees- BTR is \$22.05 plus the regulatory permit will be \$300.00 annually.
- Any properties that currently have a valid transient rental license, or are part of the *Allen* and *Rollerson* cases and settlement agreement will be eligible to receive a license for 1-6 month rentals.

The Ordinances were approved by the Planning Board on June 16, 2022 via Resolution 2022-040. The Planning Board made the suggested change to Sec. 122-1564 (b) regarding License Transfer. The Planning Board preferred the term "square footage" instead of "size" of these units when considering a transfer.

Options:

1. To pass the new 1-6 month short-term rental ordinances, thereby creating a new regulatory permit.
2. To deny the new 1-6 month short-term rental ordinances, the current lack of regulation for any rental greater than or equal to 30 days or one calendar month will continue.