

**PLANNING BOARD  
RESOLUTION NO. 2022-005**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD RECOMMENDING AN ORDINANCE TO THE CITY COMMISSION TO AMEND CHAPTER 108 OF THE LAND DEVELOPMENT REGULATIONS, ARTICLE X "BUILDING PERMIT ALLOCATION SYSTEM", TO CLARIFY EXISTING AND PROPOSED PROVISIONS PURSUANT TO SECTION 90-552; PROVIDING FOR CONCURRENT AND CONDITIONAL ADOPTION UPON FINAL ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Key West, Florida (the "City") proposes to amend Chapter 108, Article X, Division 2 of the Land Development Regulations (the "LDRs") pursuant to provisions of Chapters 163, 166, and 380 of the Florida State Statutes; and

**WHEREAS**, the amendment will ensure consistency between the City of Key West Comprehensive Plan and the Land Development Regulations; and

**WHEREAS**, the amendment provides that the reallocation provision shall not apply to the units allocated to the property currently known as the 3.2 development located in Bahama Village; and

**WHEREAS**, this amendment was reviewed pursuant to criteria in Section 90-552 of the Land Development Regulations; and

**WHEREAS**, this proposed amendment to the Land Development Regulations was presented to the Planning Board with a recommendation of approval at its regularly scheduled meeting on January 20, 2022; and

**WHEREAS**, the Planning Board finds that it is in the public's interest to amend the City's Land Development Regulations as proposed herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

  
\_\_\_\_\_ Chairman

  
\_\_\_\_\_ Planning Director

**Section 2.** That the proposed amendment to Chapter 108 of the Land Development Regulations is recommended for approval; the changes are as follows: \*

Sec. 108-997. Period of allocation and ranking/review of applications.



{ . . . }

- (e) *Recovered units.* Building permits shall be obtained within two years of the final award date. If a building permit is not issued within that timeframe the allocated units will revert to the city for reallocation. The reallocation provision shall not apply to the property currently known as the 3.2 development located in Bahama Village.
- (f) *Affordable unit allocations.*
  - (1) All units allocated as affordable are subject to subsections 122-1467(c), (d), (e), and (f) of the workforce housing ordinance.
  - (2) Applicant eligibility requirements are subject to subsections 122-1469(2) through (15) of the workforce housing ordinance.
  - (3) Affordable housing projects enabled by federal tax credit housing are not subject to [subsection] 122-1467(c).
- (g) *Penalty.* For projects that fail to achieve the green building standard certification, as purported in the application for which the award was granted, final certificate of occupancy will not be awarded until such time that the applicant is able to establish that the green building standard has been achieved.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-01, § 1, 1-4-2018; Ord. No. 18-11, § 5, 6-5-2018; Ord. No. 19-18, § 2, 8-6-2019)

*\*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading*

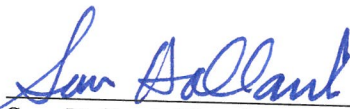
**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

 Chairman  
 Planning Director

**Section 4.** This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty-five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference to this approval; that within the forty-five (45) day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement order.

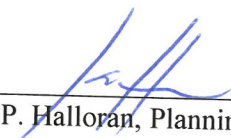
Read and passed on first reading at a regular meeting held this 20th day of January 2022.

Authenticated by the Chairman of the Planning Board and the Planning Director;

  
\_\_\_\_\_  
Sam Holland, Planning Board Chair

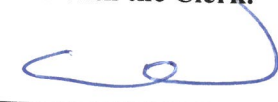
2-4-22  
Date

**Attest:**



  
\_\_\_\_\_  
Katie P. Halloran, Planning Director

2/4/2022  
Date

**Filed with the Clerk:**

  
\_\_\_\_\_  
Cheryl Smith, City Clerk

2-7-2022  
Date

  
\_\_\_\_\_  
Chairman  
  
\_\_\_\_\_  
Planning Director

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 108 OF THE LAND DEVELOPMENT REGULATIONS, ARTICLE X "BUILDING PERMIT ALLOCATION SYSTEM", TO CLARIFY EXISTING AND PROPOSED PROVISIONS; PROVIDING FOR CONCURRENT AND CONDITIONAL ADOPTION UPON ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS; 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 amend Chapter 108 of the Code of Ordinances, entitled Planning and Development, specifically existing Section 108-997; and

WHEREAS, the City Commission previously approved a draft ordinance to reflect Planning Board Resolution 2021-36, which removes a provision in the Comprehensive Plan that reverts BPAS allocations (to the City's BPAS pool) if building permits are not issued within two year of the final BPAS award date; and

WHEREAS, the Land Development Regulations also include language in Section 108-997 that references this reversion clause; and

WHEREAS, the affordable workforce housing project being pursued at the property known as the 3.2 acres in Bahama Village is complex and will require federal and state funding subsidies and may not reach building permit stage within 24 months; and

WHEREAS, the planning board held a noticed public hearing on January 20, 2022, where based on the consideration of recommendations by the city planner and other information, the board recommended approval of the proposed amendments through Planning Board Resolution 2022-\_\_\_; and

WHEREAS, an amendment to section 108-997 of the Code of Ordinances will promote the health, safety and 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 108-997 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 108-997. - Period of allocation and ranking/review of applications.**

{...}

- (e) *Recovered units.* Building permits shall be obtained within two years of the final award date. If a building permit is not issued within that timeframe the allocated units will revert to the city for reallocation. The reallocation provision shall not apply to the property currently known as the 3.2 development located in Bahama Village.
- (f) *Affordable unit allocations.*
- (1) All units allocated as affordable are subject to subsections 122-1467(c), (d), (e), and (f) of the workforce housing ordinance.
- (2) Applicant eligibility requirements are subject to subsections 122-1469(2) through (15) of the workforce housing ordinance.

(3) Affordable housing projects enabled by federal tax credit housing are not subject to [subsection] 122-1467(c).

(g) *Penalty.* For projects that fail to achieve the green building standard certification, as purported in the application for which the award was granted, final certificate of occupancy will not be awarded until such time that the applicant is able to establish that the green building standard has been achieved.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-01, § 1, 1-4-2018; Ord. No. 18-11, § 5, 6-5-2018; Ord. No. 19-18, § 2, 8-6-2019)

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\*(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.)

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 the 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 \_\_\_\_\_, 2022.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Authenticated by the presiding officer and Clerk of the  
Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Filed with the Clerk \_\_\_\_\_, 2022.

Mayor Teri Johnston \_\_\_\_\_  
Vice Mayor Sam Kaufman \_\_\_\_\_  
Commissioner Gregory Davila \_\_\_\_\_  
Commissioner Mary Lou Hoover \_\_\_\_\_  
Commissioner Clayton Lopez \_\_\_\_\_  
Commissioner Billy Wardlow \_\_\_\_\_  
Commissioner Jimmy Weekley \_\_\_\_\_

\_\_\_\_\_

TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK