

**PLANNING BOARD  
RESOLUTION NO. 2012-14**

**A RESOLUTION AMENDING PLANNING BOARD RESOLUTION 2012-04, AND RECOMMENDING AMENDMENT TO CHAPTER 108 OF THE CODE OF ORDINANCES ENTITLED "PLANNING AND DEVELOPMENT," TO INCLUDE SECTION 108-999 TO PROVIDE FOR THE RETROACTIVE INVOKING OF THE ZONING IN PROGRESS DOCTRINE; DECLARING THAT THE CITY IS CONSIDERING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS AND BUILDING PERMIT ALLOCATION SYSTEM; DIRECTING BUILDING AND PLANNING DEPARTMENT STAFF TO CONTINUE THE POLICY OF DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS REQUIRING THE ISSUANCE OF BUILDING PERMIT ALLOCATIONS; CONTINUING THIS POLICY UNTIL NEW BUILDING PERMIT ALLOCATION REGULATIONS OR AMENDED LAND DEVELOPMENT REGULATIONS ARE ADOPTED BY THE CITY COMMISSION; PROVIDING FOR RETROACTIVE EFFECT, DIRECTING STAFF TO CONTINUE PREPARATIONS OF NEW BUILDING PERMIT ALLOCATION REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 108-995 of the Land Development Regulations requires the City's Administrative Official to 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 of the City's Building Permit Allocation; and

**WHEREAS**, the 2010-2011 Building Permit Allocation Annual Report provides

**Page 1 of 4  
Resolution Number 2012-14**

\*(Coding: Added language is underlined; deleted language is ~~struck through~~)

  
Chairman  
  
Planning Director

recommendations based on the implementation of the Building Permit Allocation System; and

**WHEREAS**, the Planning Department began documented efforts concerning the subject on at least November 16, 2011; and

**WHEREAS**, in order to provide for the orderly allocation of a very limited number of existing building permit allocations, the City of Key West Planning Department proposes the invoking of the Zoning in Progress Doctrine to the City of Key West Planning Board for consideration of recommendation to the City Commission to temporarily halt the issuance of building permits pending the passage of a Building Permit Allocation System; and

**WHEREAS**, the Planning Board approved a resolution invoking the Zoning in Progress Doctrine on January 19, 2012 through Resolution 2012-04; and

**WHEREAS**, an amendment to Chapter 108 of the Code of Ordinances is necessary to provide for the retroactive invoking of the zoning in progress doctrine; and

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

**Section 1.** That Section 1 of Planning Board Resolution 2012-04 is supplemented as follows:

That pursuant to the pending legislation doctrine set forth in Smith v. City of Clearwater, 383

So. 2d 681 (Fla. 2<sup>nd</sup> DCA 1980), with the exception of requests involving beneficial use allocations, City staff shall defer the acceptance and processing of applications requiring building permit allocations. Chapter 108, Article X, of the Code of Ordinances is hereby amended as follows\*:

**Sec. 108-999 Zoning in Progress.**

City staff shall defer the acceptance and processing of applications dated after November 16, 2011 for building permit allocations with exception of requests for beneficial use allocations until new land development regulations are adopted, or until the passage of 365 days, whichever occurs first.

108-9991000-108-1125- Reserved

**Section 2.** That Section 2 is amended as follows:

That this policy shall be in effect until new Land Development Regulations or amended Land Development Regulations are adopted by the City Commission or until the passage of 365 180 days, whichever occurs first.

**Section 3.** That Section 5 is amended as follows:

Should the City Commission recommend approval of Zoning in Progress, the adoption of the City Commission resolution shall be evidenced by placement of a notice in a newspaper of general circulation within the City, in accordance with Chapter 50, Florida Statutes, within two weeks after adoption of this resolution. A copy of this resolution shall also be posted at City Hall for the next 365 days.

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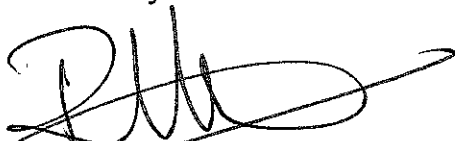
  
Chairman  
Planning Director

**Section 3.** All other provisions of Planning Board Resolution 2012-04 remain in full force and effect.

**Section 4.** This resolution 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.

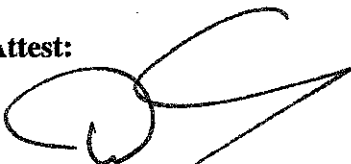
Read and passed at a regular meeting held this 19 day of April, 2012.

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

  
\_\_\_\_\_  
Richard Klitenick, Chairman  
Key West Planning Board

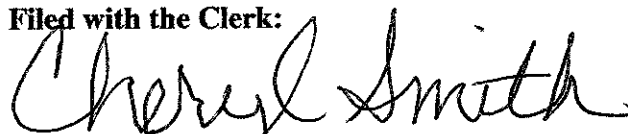
4/25/12  
\_\_\_\_\_  
Date

Attest:

  
\_\_\_\_\_  
Donald Leland Craig, AICP  
Planning Director

4/25/12  
\_\_\_\_\_  
Date

Filed with the Clerk:

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

4-26-12  
\_\_\_\_\_  
Date

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

AN ORDINANCE OF THE CITY OF KEY WEST AMENDING CHAPTER 108 OF THE CODE OF ORDINANCES ENTITLED "PLANNING AND DEVELOPMENT" TO INCLUDE SECTION 108-999 TO PROVIDE FOR THE RETROACTIVE INVOKING OF THE ZONING IN PROGRESS DOCTRINE; DECLARING THAT THE CITY IS CONSIDERING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS AND BUILDING PERMIT ALLOCATION SYSTEM; DIRECTING BUILDING AND PLANNING DEPARTMENT STAFF TO CONTINUE THE POLICY OF DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS REQUIRING THE ISSUANCE OF BUILDING PERMIT ALLOCATIONS; CONTINUING THIS POLICY UNTIL NEW BUILDING PERMIT ALLOCATION REGULATIONS OR AMENDED LAND DEVELOPMENT REGULATIONS ARE ADOPTED BY THE CITY COMMISSION; PROVIDING FOR RETROACTIVE EFFECT, DIRECTING STAFF TO CONTINUE PREPARATIONS OF NEW BUILDING PERMIT ALLOCATION REGULATIONS; 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;

WHEREAS, pursuant to Section 90-522, the Planning Board held a noticed public hearing on \_\_\_\_\_; where based on the consideration of recommendations of the City Planner, City Attorney, Building

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96 (W)

Official and other information recommended approval of the proposed amendments with modifications; and

**WHEREAS**, the City Commission held a noticed public hearing on \_\_\_\_\_ and a second public hearing on \_\_\_\_\_ 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 OF KEY WEST, FLORIDA:

Section 1: That Chapter 108, Article X, of the Code of

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QC 2

Ordinances is hereby amended as follows\*:

**Sec. 108-999 Zoning in Progress.**

City staff shall defer the acceptance and processing of applications dated after November 16, 2011 for building permit allocations with exception of requests for beneficial use allocations until new land development regulations are adopted, or until the passage of 365 days, whichever occurs first.

108-9991000-108-1125- Reserved

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

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Handwritten signature and initials, possibly 'SC' and a circled 'P'.

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 \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Filed with the Clerk \_\_\_\_\_, 2012.

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

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