

**PLANNING BOARD
RESOLUTION NO. 2019-01**

**A RESOLUTION OF THE CITY OF KEY WEST
RECOMMENDING AN ORDINANCE TO THE CITY
COMMISSION AMENDING CHAPTER 108 OF THE LAND
DEVELOPMENT REGULATIONS, ENTITLED
“PLANNING AND DEVELOPMENT”, SECTION 108-991,
ENTITLED “DEVELOPMENT NOT AFFECTED BY
ARTICLE”; PURSUANT TO CHAPTER 90, ARTICLE VI,
DIVISION 2; PROVIDING FOR SEVERABILITY;
PROVIDING FOR THE REPEAL OF INCONSISTENT
PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, pursuant to the provisions of Chapters 163, 166, and 380 of the Florida State Statutes, the City of Key West, Florida (the “City”) proposes to amend Chapter 108 of the Land Development Regulations (the “LDRs”); and

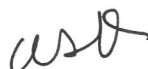
WHEREAS, amending section 108-991, entitled “Development not affected by article”, will enable the City to better regulate the number of transient licenses; and

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 17, 2019; and

WHEREAS, the Planning Board finds that it is in the public’s interest to amend the City’s Land Development Regulations, by striking language from Chapter 108, section 108-991; and

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.

 Chair

 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:*

Section 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:
 - a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
 - b. Building permits issued prior to April 1, 2010;
 - c. Copies of city directory entries on or about April 1, 2010;
 - d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible 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.~~
 - e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
 - f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;

- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

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 May 2, 2017, must demonstrate that the unit sought to be established hereunder is or has been a legally permissible 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.~~

(Code 1986, § 34.1372(4); Ord. No. 09-07, § 6, 5-5-2009; Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 17-02, § 1, 5-3-2017)

*(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 city clerk.

 Chair
 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 in 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 or order.

Read and passed on first reading at a regular meeting held this 17th day of January 2019.

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




Sam Holland, Planning Board Chair

2-15-19

Date

Attest:

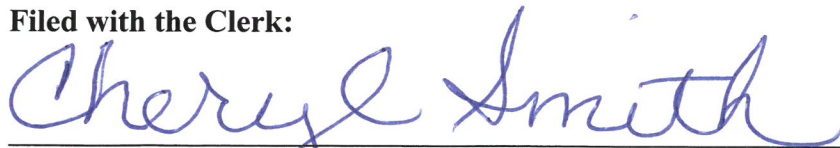


Patrick Wright, Planning Director

2-15-19

Date

Filed with the Clerk:



Cheryl Smith, City Clerk

2-19-19

Date