

RESOLUTION NO. 19-339

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF KEY WEST, FLORIDA, APPROVING AN UPDATE
TO THE CITY OF KEY WEST PLANNING DEPARTMENT
FEES; PROVIDING FOR ANNUAL FEE
ADJUSTMENTS; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, Section 90-487(b) of the Code of Ordinances allows the City Commission to establish fees, charges and expenses imposed by the Land Development Regulations by resolution; and

WHEREAS, the Planning Department Fees were last adjusted in 2014 by Resolution 14-014.

WHEREAS, application processing costs have increased since 2014; and

WHEREAS, the City Commission finds that an adjustment to the Planning Department Fee Schedule is necessary to ensure that costs associated with implementing the Land Development Regulations are borne by those parties deriving the benefit of such services; and

WHEREAS, the City Commission finds the proposed fees are commensurate with anticipated costs, along with approval of a provision to ensure annual fee adjustments.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: Fee and Rates. An adjustment be made to the Key West Planning Department fees in accordance with executive summary

dated for meeting date November 6, 2019, with attached schedule of fees (attached "Exhibit A"), are hereby approved.


Section 2: That 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.

Passed and adopted by the City Commission at a meeting held this 6th day of November, 2019.

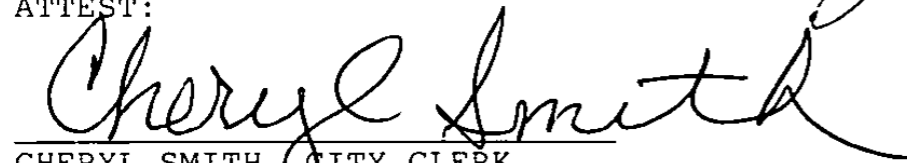
Authenticated by the Presiding Officer and Clerk of the Commission on 6th day of November, 2019.

Filed with the Clerk on November 7, 2019.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

EXECUTIVE SUMMARY



To: Gregory Veliz, City Manager
Through: Roy Bishop, Planning Director
From: Angela Budde, Planner I
Meeting Date: November 6, 2019
RE: Amendment to Planning Department Fees Schedule

ACTION STATEMENT:

Request: That the City Commission approve the Resolution setting the proposed fees for applications processed by the Planning Department and providing for annual fee adjustments.

BACKGROUND:

Pursuant to Section 90-487 (b), establishment of fees, charges and expenses imposed by the Land Development Regulations (LDRs) will be established by Resolution.

In January 7, 2014, the City Commission approved Resolution 14-014, amending Planning Department fees.

Planning staff reviewed fees from nearby municipalities in the Florida Keys and Monroe County to measure if the Planning Department's current fee schedule is cost effective. It was determined the application processing costs have increased since 2014. Staff analyzed the involvement for reviewing and processing applications, preparing staff reports and attending public meetings associated with these requests. This analysis led to the recommendation to propose the increase to most fees. In addition, some fees were not increased in 2014. It is proposed those fees would merely be increased based on the Consumer Price Index (CPI) changes since 2014. HARC fees are not affected under this request.

Previous City Actions:

January 7, 2014 City Commission Resolution 14-014
(Amendment of Planning Department fees)

Planning Staff Analysis:

In the past year, the city has re-engineered the Building Department review process, by requesting planning staff to review construction plans to assure compliance with Planning and Zoning controlled by the Land Development Regulations (LDRs). This change placed the responsibility of compliance with dimensional requirements and other factors with planning staff rather than on the Building department.

The current Building Permit Allocation System (BPAS) fee for affordable housing is \$1,000.00. This directly supports the City's commitment to affordable housing. To

promote and encourage applicant submittal for affordable housing, Planning staff is proposing a reduction to the fee by 50%.

Furthermore, advertising cost has increased substantially since 2014 and the Fire Department review fee increased to \$100.00 this year.

It is staff's observation that the City needs to recover a portion, not all, of the costs of providing planning services to the citizens recognizing that the Planning Department is not a self-funding enterprise district or cost center. Staff also recommends fees are annually increased by 5 %, to become effective on October 1, 2020, and each year thereafter, until or unless amended by Resolution of the City Commission.

Options/Advantages/Disadvantages:

Option 1: Approve the proposed amendment to Planning Department fees schedule.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would provide enhanced services consistent with mission and vision of the City.
2. **Financial Impact:** There will be a direct positive impact to the City by providing better recovery of the costs of providing personnel for Planning function to serve citizens.

Option 2: Approve some of the fees or modify proposed fees.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would provide enhanced services consistent with mission and vision of the City
2. **Financial Impact:** There will be a direct positive impact to the City by providing better recovery of the costs of providing personnel for the Planning function to serve citizens.

Option 3: Do not approve the addition of fees and fee clarification.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would not be consistent with providing cost effective services for the citizens wherein the applicant for a discretionary service pays for that privilege.
2. **Financial Impact:** There would continue to be a negative impact on the fiscal health of the City in that fees are not collected for professional services provided.

Recommendation

The Planning Department recommends Option 1 of the proposed Resolution.



PLANNING FEE SCHEDULE (PROPOSED November 6, 2019)
CITY OF KEY WEST, FLORIDA • PLANNING DEPARTMENT
 1300 White Street • Key West, Florida 33040 • 305-809-3764 • www.cityofkeywest-fl.gov

As adopted by City Commission Resolution No. 19-_____ on November 6, 2019.

Application Type	Current Fees	Proposed Fees
Administrative Variance	\$ 750.00	\$ 1,500.00
After-the-Fact	\$ 1,500.00	\$ 3,000.00
Alcohol Sales Special Exception	\$ 2,000.00	\$ 2,100.00
Appeals to the City Commission/Board of Adjustment	\$ 1,000.00	\$ 2,000.00
Beneficial Use Determination	\$ 500.00	No Change
Building Permit Allocation System (BPAS) AFFORDABLE HOUSING	\$ 1,000.00	\$ 500.00
Building Permit Allocation System (BPAS) MARKET RATE	\$ 1,000.00	\$ 1,100.00
Change of Nonconforming Use	\$ 1,000.00	\$ 1,200.00
Conditional Use	\$ 2,000.00	\$ 2,500.00
Extension (not part of a development plan)	\$ 400.00	\$ 500.00
Development Agreement	\$ 7,000.00	\$ 8,000.00
Preliminary Consideration by City Commission	\$ 500.00	No Change
Development Plan		
Minor:		
Within Historic District	\$ 2,500.00	\$ 2,700.00
Outside Historic District	\$ 2,000.00	\$ 2,100.00
Conditional Use	\$ 1,000.00	\$ 1,100.00
Extension	\$ 400.00	\$ 500.00
Major:	\$ 3,500.00	\$ 3,700.00
Conditional Use	\$ 1,000.00	\$ 1,100.00
Extension	\$ 400.00	\$ 500.00
Minor Deviation	\$ 400.00	\$ 500.00
Major Deviation	\$ 1,000.00	\$ 1,100.00
Easement	\$ 2,000.00	\$ 2,100.00
Each additional for same parcel	\$ 400.00	\$ 500.00
Lawful Unit Determination (BPAS exemption)	\$ 1,000.00	No Change
Map Amendment (FLUM & Zoning)	\$ 6,000.00	\$ 7,000.00
Outdoor Merchandise Display Exception	\$ 100.00	No Change
Pre-Application Conference	\$ 250.00	\$ 275.00
Revocable License	\$ 350.00	\$ 700.00
Right-of-Way Vacation	\$ 1,000.00	\$ 1,100.00
Each additional vacation for same parcel	\$ 400.00	\$ 500.00
Subdivision		
Lot Split / Subdivision Waiver	\$ 500.00	\$ 1,000.00
Minor Subdivision	\$ 2,000.00	\$ 2,100.00
Preliminary Plat for Major Subdivision	\$ 3,500.00	\$ 3,700.00
Final Plat for Major Subdivision	\$ 2,000.00	\$ 2,100.00

CITY OF KEY WEST, FLORIDA • PLANNING DEPARTMENT
 FEE SCHEDULE (PROPOSED NOVEMBER 6, 2019)

Application Type	Current Fees	Proposed Fees
Text Amendments		
Comprehensive Plan	\$ 5,000.00	\$ 5,500.00
Land Development Regulation	\$ 5,000.00	\$ 5,500.00
Transfer of Transient & License, Building Permit		
Allocation System (BPAS) Award or Development Rights	\$ 2,000.00	\$ 4,000.00
Variance		
After-the-Fact	\$ 2,000.00	\$ 4,000.00
Extension	\$ 400.00	\$ 500.00
Verification Letters		
Build-back	\$ 400.00	\$ 500.00
Condo Conversion Acknowledgement	\$ 400.00	\$ 500.00
Verification of Planning Director's Decision	\$ 400.00	\$ 500.00
Unassigned Units Determination	No Fee	No Change
Zoning Verification Letter	\$ 400.00	\$ 500.00
Additional Fees		
All Applications		
Fire Department Review Fee	\$ 50.00	\$ 100.00
Advertising and Noticing Fee	\$ 100.00	\$ 200.00
Other Fees		
Re-notice of projects tabled for a 3rd time at applicant's request	\$ 600.00	\$ 700.00
Planning Department Inspections	\$ 250.00	\$ 275.00

RESOLUTION NO. 14-014

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN ADJUSTMENT TO CITY OF KEY WEST PLANNING DEPARTMENT FEES; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-487(b) of the Code of Ordinances allows the City Commission to establish fees, charges and expenses imposed by the Land Development Regulations by resolution; and

WHEREAS, Section 90-392(a) allows the City Commission to establish fees for administrative variances;

WHEREAS, the City Commission finds that an adjustment to the Planning Department Fee Schedule, including administrative variances and HARC fees, is necessary to ensure that costs associated with implementing the Land Development Regulations are borne by those parties deriving the benefit of such services; and

WHEREAS, the City Commission finds the proposed fees are commensurate with anticipated costs.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the fees specified in the memorandum from Planning Director, Donald Craig, dated for meeting date January 7, 2014, with attached schedule of fees (attached "Exhibit A"), are hereby approved.


Section 2: That 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.

Passed and adopted by the City Commission at a meeting held this 7th day of January, 2014.

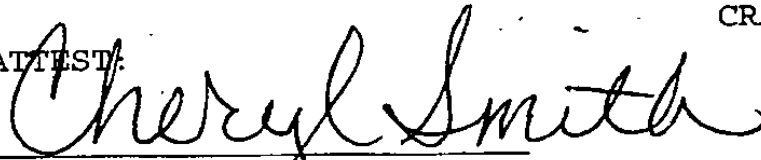
Authenticated by the presiding officer and Clerk of the Commission on January 8, 2014.

Filed with the Clerk January 8, 2014.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Billy Wardlow	<u>Absent</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

EXECUTIVE SUMMARY



To: Bogdan Vitas, City Manager

Through: Donald Leland Craig, AICP
Director of Development Services and Planning Director

From: Carlene Smith, Planner Analyst
Kevin Bond, Planner II

Meeting Date: January 7, 2014

RE: Amendment to Planning Department Fee Schedule

ACTION STATEMENT:

Request: That the City Commission approve the resolution setting the proposed fees for applications processed by the Planning Department.

Location: City wide

BACKGROUND:

Administrative Variances – On October 16, 2013, the City Commission approved Ordinance No. 13-18, amending Chapter 90 of the City's Land Development Regulations (LDRs) to permit the Planning Director to issue administrative variances. Pursuant to Code Section 90-392(a), application fees will be established by resolution of the City Commission. The attached fee schedule has been modified to illustrate the proposed new fees for Administrative Variances, as well as clarify the Affordable/Workforce Housing Waiver Fee and create a fee for Historic Status of Building Verification (See Attachment 1).

Affordable/Workforce Housing Waiver Fee – Members of the public who apply for affordable/workforce housing through the Key West Housing Authority and do not meet eligibility requirements, have the option to request the Planning Board review their eligibility per Code Section 122-1469. Since fees for applications that include workforce housing component are reduced by 50%, applicants are charged half the cost of a variance fee, which is \$500. However, since there is no actual fee listed in the fee schedule, the Planning Department is requesting that this be clarified by adding a line item specifically for Affordable/Workforce Housing Waivers.

Historic Status of Building Verification – The Historic Preservation Planner frequently processes requests for written verification on the historic status of buildings. This is a timely process since these requests require extensive research. In nearly all cases, these requests are initiated by lending institutions and insurance companies as a step in their

due diligence process. This service has been provided by staff without recouping the cost of staff time to process the request. Currently, the Planning Department's fee for similar verification letters is \$400. The Planning Department is requesting to add a new fee for Historic Status of Building Verification letters to the fee schedule.

Previous City Actions:

October 16, 2013 City Commission Ordinance 13-18
(Administrative Variance)
February 20, 2013 City Commission Resolution 13-056
(Amendment of Planning Department fees and addition of HARC fees)

Planning Staff Analysis:

See background statement above. In addition, it is staff's observation that the City needs to recover a portion, not all, of the costs of providing planning services provided to citizens recognizing that the Planning Department is not a self-funding enterprise district or cost center.

Options/Advantages/Disadvantages:

Option 1: Approve the proposed addition of new Administrative Variance fees, a Historic Status of Building Verification fee, and clarification of the Affordable/Workforce Housing Waiver Fee.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would provide enhanced services consistent with mission and vision of the City.
2. **Financial Impact:** There will be a direct positive impact to the City by providing better recovery of the costs of providing personnel for the Planning and HARC function to serve citizens.

Option 2: Approve some of the fees or modify proposed fees.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would provide enhanced services consistent with mission and vision of the City.
2. **Financial Impact:** There will be a direct positive impact to the City by providing better recovery of the costs of providing personnel for the Planning and HARC function to serve citizens.

Option 3: Do not approve the addition of fees and fee clarification.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would not be consistent with providing cost effective services for the citizens wherein the applicant for a discretionary service pays for that privilege.

2. **Financial Impact:** There would continue to be a negative impact on the fiscal health of the City in that fees are not collected for professional services provided.

Recommendation

The Planning Department recommends Option 1 of the proposed resolution to add new Administrative Variance fees, a Historic Status of Building Verification fee, and clarification of the Affordable/Workforce Housing Waiver Fee.



FEE SCHEDULE (PROPOSED JANUARY 2014)
CITY OF KEY WEST, FLORIDA • PLANNING DEPARTMENT
 3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

14-014 7
 As adopted by City Commission Resolution No. 14-XXX on January XX, 2014.

Application Type	Current Fees	Proposed Fees
Administrative Variance		\$ 750.00
After-the-Fact		\$ 1,500.00
Alcohol Sales Special Exception	\$ 2,000.00	
Appeals to the City Commission/Board of Adjustment	\$ 1,000.00	
Beneficial Use Determination	\$ 500.00	
Building Permit Allocation System (BPAS)	\$ 1,000.00	
Certificate of Appropriateness (HARC) *:		
Minor Project	\$ 50.00	
Major Project	\$ 100.00	
Residential Painting	\$ 10.00	
Demolitions	\$ 50.00	
<i>*Additional HARC review and inspection fees may apply and will be included in building permit fees.</i>		
Change of Nonconforming Use	\$ 1,000.00	
Conditional Use	\$ 2,000.00	
Extension (not part of a development plan)	\$ 400.00	
Condo Conversion Acknowledgement Letter	\$ 400.00	
Development Agreement	\$ 7,000.00	
Preliminary Consideration by City Commission	\$ 500.00	
Development Plan		
Minor:		
Within Historic District	\$ 2,500.00	
Outside Historic District	\$ 2,000.00	
Conditional Use	\$ 1,000.00	
Extension	\$ 400.00	
Major:	\$ 3,500.00	
Conditional Use	\$ 1,000.00	
Extension	\$ 400.00	
Minor Deviation	\$ 400.00	
Major Deviation	\$ 1,000.00	
Easement	\$ 2,000.00	
Each additional for same parcel	\$ 400.00	
Habitat Evaluation	\$ 50.00	
Lawful Unit Determination (BPAS exemption)	\$ 1,000.00	
Map Amendment (FLUM & Zoning) ¹	\$ 6,000.00	
Outdoor Merchandise Display Exception	\$ 100.00	
Pre-Application Conference	\$ 250.00	
Right-of-Way Vacation	\$ 1,000.00	
Each additional vacation for same parcel	\$ 400.00	

¹ per City Commission Resolution No. 07-154, not listed in revised fee schedule approved per City Commission Resolution 13-056

CITY OF KEY WEST, FLORIDA • PLANNING DEPARTMENT
 FEE SCHEDULE (PROPOSED JANUARY 2014)

Application Type	Current Fees	Proposed Fees
Subdivision		
Lot Split / Subdivision Waiver	\$ 500.00	
Minor Subdivision	\$ 2,000.00	
Preliminary Plat for Major Subdivision	\$ 3,500.00	
Final Plat for Major Subdivision	\$ 2,000.00	
Text Amendments		
Comprehensive Plan	\$ 5,000.00	
Land Development Regulation	\$ 5,000.00	
Transfer of Transient & License, Building Permit		
Allocation System (BPAS) Award or Development Rights	\$ 2,000.00	
Variance		
After-the-Fact	\$ 2,000.00	
Extension	\$ 400.00	
Affordable/Workforce Housing Waiver		\$ 500.00
Verification Letters		
Buildback	\$ 400.00	
Historic Status of Building		\$ 400.00
Verification of Planning Director's Decision	\$ 400.00	
Zoning Verification	\$ 400.00	
Additional Fees		
All Applications		
Fire Department Review Fee	\$ 50.00	
Advertising and Noticing Fee	\$ 100.00	
Other Fees		
Re-notice of projects tabled for a 3rd time at applicant's request	\$ 600.00	
Planning Department Inspections	\$ 250.00	

When a development project includes workforce housing, the portion of the application fee due to the workforce housing component shall be 50%. The Planning Department will be reimbursed 100% of cost for special studies required for review of any type of application.

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTION 90-392 AND BY ADDING SECTION 90-398 TO AUTHORIZE THE CITY PLANNER TO ISSUE ADMINISTRATIVE VARIANCES, ESTABLISH PROCEDURES FOR AN APPLICATION FOR ADMINISTRATIVE VARIANCES, ESTABLISH A PROCEDURE FOR PROVIDING NOTICE TO ADJOINING PROPERTY OWNERS OF THE CITY PLANNER'S INTENT TO ISSUE AN ADMINISTRATIVE VARIANCE, TO ESTABLISH CRITERIA FOR THE ISSUANCE OF ADMINISTRATIVE VARIANCES AND ESTABLISH A PROCEDURE FOR PUBLIC HEARINGS ON APPLICATIONS FOR ADMINISTRATIVE VARIANCES; AMENDING CHAPTER 122 ENTITLED "ZONING" BY AMENDING SECTION 122-28 AND ADDING SECTION 122-32 (G) TO ESTABLISH PROCEDURES FOR NONCONFORMITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Key West Planning Department has recommended a formal procedure for the consideration and granting of administrative variances; and

WHEREAS, the Planning Board at its meeting of June 20, 2013 found consistency with the City of Key West Comprehensive Plan; and

WHEREAS, the City Commission finds that an administrative variance procedure would promote the health, safety and welfare of the citizens of Key West.

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

Section 1: That Section 90-392 of the Code of Ordinances
is hereby amended as follows*:

Sec. 90-392. Application

(a) All applications for variances from the land
development regulations shall be in the form required and
provided by the city planner. Such application shall be
submitted to the city planning office together with the fee
established by resolution of the city commission. A completed
application shall include the application form, the fee and all
required supplemental information necessary to render
determinations related to the variance request.

(b) Upon receipt of an application for a variance, the
planning board shall hold a public hearing upon the application
in accordance with the procedures cited in section 90-393 and
shall render an order granting or denying such application. In
granting such application the planning board must make specific
affirmative findings respecting each of the matters specified in

*(Coding: Added language is underlined; deleted language is
~~struck through~~. Language added after first reading of this
Ordinance is double underlined; language deleted after first
reading of this Ordinance is ~~double struck through~~.)

section 90-394 and may prescribe appropriate conditions and safeguards, including requirements in excess of those otherwise required by these land development regulations, which shall become a part of the terms under which a development order may be issued. When appropriate, as prescribed in section 90-398, the city planner may treat an application for variance as an application for administrative variance.

Section 2: That Section 90-398 is hereby added to the Code of Ordinances as follows:

Sec.90-398. Administrative Variances.

(a) The purpose of this section is to establish authority, procedures and standards for the granting of administrative variances and waivers from certain requirements of this chapter.

(b) Subject to the provisions contained herein below, the city planner is authorized to grant the following variances and waivers according to the standards contained in subsections ~~(h)~~ and ~~(i)~~ of this section:

(1) Reduction in the front, rear yard, and non-shoreline setback requirements in chapter 122, article IV, by no more than ten feet and side yard setback by no more than 20 percent;

~~(2) Reduction in the off street parking requirements in chapter 100, article VII by no more than 20 percent,~~

(2) Reduction in all street and landscaping buffer

yard width requirements in chapter 108, article VI by no more than ten percent;

(43) Reduction in the total area of landscaping required for off-street parking and loading in chapter 108, article VII, subdivision II by no more than ten percent.

(c) An application for an administrative variance or waiver under this section shall be submitted to the city planner on a form approved by the city planner.

~~(d) The fee structure for an administrative variance or waiver will be \$750.00, plus \$50.00 fee for Fire Department review, and \$100.00 advertising fee, and the fee structure for an after the fact administrative variance or waiver will be \$1,500.00, plus \$50.00 fee for Fire Department review, and \$100.00 advertising fee.~~

(ed) All applications for administrative variances or waivers shall be considered by the Development Review Committee pursuant to its customary process.

(fe) The city planner ~~will~~ shall complete his or her review of the entire application and render a proposed decision within three (3) weeks of the Development Review Committee meeting.

(ef) The city planner's proposed decision shall be in writing.

(hg) Prior to rendering a proposed decision, the city planner shall consult with and obtain concurrence of his or her

decision by the City Manager, or the City Manager's designee.
With the exception of the special accessibility setback variance
as provided for in subsection (*j) of this section, approval of
an administrative variance shall only be proposed or granted if
all of the standards in subsection (h) and (i) of this section
are met.

(*h) The city planner shall recommend approval or approve
an administrative variance under this section if the applicant
demonstrates that all of the following standards are met:

(1) The applicant shall demonstrate a showing of good
and sufficient cause, as follows:

a. the request deals solely with the physical
characteristics of the property, subdivision lot or
land parcel under question; and

b. the request is not based on the character of
the planned construction or substantial improvement,
the personal characteristics of the owner or
inhabitants; and

c. the request is not based on inconvenience,
aesthetic considerations, physical handicaps, personal
preferences, the disapproval of neighbors or
homeowners' association restrictions;

(2) Failure to grant the administrative variance would
result in exceptional hardship to the applicant;

(3) Granting the administrative variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;

(4) The property has unique or peculiar circumstances, which apply to the subject property, but which do not apply to other properties in the same zoning district;

(5) Granting the administrative variance will not give the applicant any special privilege denied to other properties in the immediate neighborhood in terms of the provisions of this chapter or established development patterns;

(6) Granting the administrative variance is not based on disabilities, handicaps or health of the applicant or members of her/his family; and

(7) The administrative variance is the minimum necessary to provide relief to the applicant.

(a) The city planner may recommend approval or approve an administrative variance or waiver that modifies the minimum front yard requirements set out in zoning districts in Chapter 122, Article IV, provided the applicant demonstrates that:

(1) The existing setback average, as measured pursuant to the definition of "setbacks" in section 86-9, on the block of the street within the land use district in which

the subject property is located is less than the land use district standard, as established in zoning districts in chapter 122, article IV; and

(2) The waiver will not result in a setback that is less than the existing front yard setback to the furthestmost projection of the main building that is closest to the front lot line on a contiguous lot on either side of the subject property; and

(3) The waiver is for an amount not greater than 20 percent of the land use district standard as established in the zoning districts in chapter 122, article IV; and

(4) In the event that a contiguous lot on either side of the subject property is vacant, the land use district standard shall apply.

(*) Notwithstanding the standards in subsections ~~(i)~~ ~~(h)~~ (1), (4), (5), (6) and (7) of this section, an administrative variance from ~~the~~ any yard setback requirements may be granted for an elevator or wheelchair lift or ramp required to allow access to the elevated dwelling unit of a disabled applicant or disabled member of ~~her/his~~ the applicant's household.

(*) Public notification of proposed approval. In the event the city planner determines that an application for an administrative variance or a waiver complies with the requirements of this section, the city planning department shall

provide written notice of proposed approval and require posting as follows:

(1) The planning department shall provide written notice by regular mail to owners of real property located within 300 feet of the property which is the subject of the proposed administrative variance or waiver.

(2) Planning Staff shall post the property which is the subject of the proposed administrative variance or waiver with a waterproof sign of at least four square feet in front surface area, which is lettered so as to be easily visible from all public streets and public ways abutting the property.

(3) The notice and posting shall provide a brief description of the proposed administrative variance or waiver; indicate where the public may examine the application; and indicate the 30-working day period within which to request a public hearing pursuant to subsection (n) below or submit a written response. The cost of providing notice and posting shall be borne by the applicant.

(m) In the event a public hearing is not requested within the period provided in subsection (n) below, the city planner shall review all public responses to the application for administrative variance or waiver ~~application~~ with respect to

whether the proposed administrative variance or waiver—and
complies with the requirements and standards of this section,
and, thereafter, the city planner shall issue a written decision
approving or denying the administrative variance.

(am) In the event the city planner issues a written
decision denying a requested administrative variance, the
applicant may file a written objection to the denial, which
shall be deemed an application for a variance pursuant to
section 90-392, which shall be subject to procedures pertaining
to variances as contained in sections 90-391 through 90-397 of
the Code of Ordinances.

(en) Public hearing by the Planning Board. If requested in
writing by an aggrieved or adversely affected party, as defined
by section 163.3215(2), Florida Statutes, during the required 30
working days of posting, a public hearing by the Planning Board
shall be scheduled at the next available hearing date. The
public hearing shall be conducted in accordance with the
procedures pertaining to variances as contained in sections 90-
391 through 90-397 of the Code of Ordinances.

(eo) Reapplication for the same or similar piece of
property requesting the same or a similar administrative
variance from the land development regulations cannot be made
within two years from the date the application was originally
denied by the Planning Board or city planner. An applicant may,

however, submit a substantially different application or reapply based on changed conditions and/or the advent of new information which have a substantial impact on material issues.

Section 3: That Section 122-28 of the Code of Ordinances is hereby amended as follows:

Sec.122-28. Replacement or reconstruction.

(a) Applicability. This section applies both to voluntary reconstruction or replacement of dwelling units and involuntary reconstruction or replacement of dwelling units. Nothing in this section is intended to supersede applicable Federal Emergency Management Agency requirements for elevation in flood zones.

(b) Dwelling units (residential). Residential dwelling units may be replaced at their existing nonconforming density, location and three-dimensional building envelope. ~~Except as provided in subsection (f) of this section,~~ dwelling units involuntarily destroyed do not require variances in order to be reconstructed or replaced. If a voluntary reconstruction or replacement occurs and if the dwelling units exist or existed in a noncomplying building or structure, the reconstruction or replacement that ~~exceeds 66 percent of the assessed or appraised value increases the non-conformity~~ of the building or structure shall require a variance granted by the planning board. In a voluntary reconstruction of a structure on a corner lot, the property owner must apply to the planning board for all

necessary setback variances. All noncomplying accessory structures to the principal building or structure (e.g., a shed, pool, fence, etc., but not including a condominium clubhouse) shall also require a variance in order to be enlarged, reconstructed, or replaced, either voluntarily or involuntarily. If a proposed reconstruction or replacement would not otherwise require a variance but would add a new building or structure to the site to accommodate allowed density, a variance shall be required for the additional building or structure. A residential building in which one or more units hold a residential transient use business tax receipt shall be deemed residential for the purposes of this section. Variances which would increase density or intensity beyond that maximum allowed on the particular property or lot by the Land Development Regulations shall be prohibited.

Section 4: That Section 122-32(g) is hereby added to the Code of Ordinances as follows:

Sec. 122-32. Additional Regulations

* * * * *

(g) Enlargement and Extensions: Non-conforming structures which are used in a manner conforming to the provisions of this chapter may be enlarged or expanded provided that the existing non-conformity is not further increased, nor any new non-conformity created.

Section 5: Public Notice. The adoption of this Ordinance 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 Ordinance. A copy of this Resolution shall also be posted at City Hall for the next one hundred and eighty (180) days.

Section 6: 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 7: 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 8: 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.

Read and passed on first reading at a regular meeting held this 2nd day of October, 2013.

Read and passed on final reading at a regular meeting held this 16 day of October, 2013.

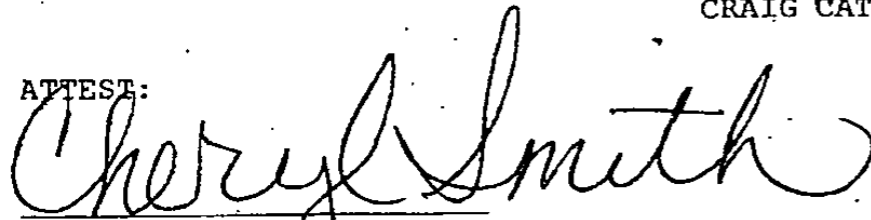
Authenticated by the presiding officer and Clerk of the Commission on 17 day of October, 2013.

Filed with the Clerk October 17, 2013.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>No</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

RESOLUTION NO. 13-056

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN ADJUSTMENT TO CITY OF KEY WEST PLANNING DEPARTMENT FEES; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-487 of the Code of Ordinances allows the City Commission to establish fees, charges and expenses imposed by the Land Development Regulations by resolution; and

WHEREAS, the City Commission finds that an adjustment to the Planning Department Fee Schedule is necessary to ensure that costs associated with implementing the Land Development Regulations are borne by those parties deriving the benefit of such services; and

WHEREAS, the City Commission finds the proposed fees are commensurate with anticipated costs.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the fees specified in the memorandum from Planning Director, dated September 21, 2012 (attached "Exhibit A"), are hereby approved.

Section 2: That 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.

Passed and adopted by the City Commission at a meeting held this 20th day of February, 2013.

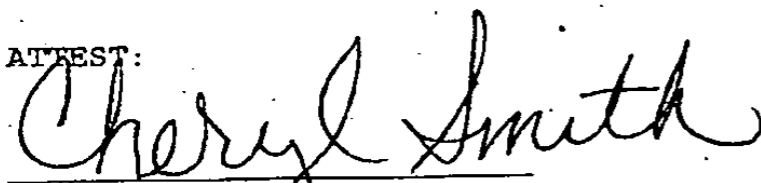
Authenticated by the presiding officer and Clerk of the Commission on February 20, 2013.

Filed with the Clerk February 21, 2013.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

EXECUTIVE SUMMARY



To: Bogdan Vitas, City Manager
Through: Donald Leland Craig, AICP, Planning Director
From: Donald Leland Craig, AICP Planning Director
Meeting Date: February 20, 2013
RE: New HARC Fees and Revised Planning Department Fees

ACTION STATEMENT:

Request: Amending City Commission Resolution 08-196 to reflect the proposed revised Planning Department fees and addition of new HARC fees for applications processed by the Planning Department.

Location: City wide

BACKGROUND: As a part of the city budget discussion this past summer, the City Commission approved in concept the use of a fee for applications to HARC. The adopted budget assumed that HARC fees would be received but discounted the anticipated total amount by 50% to account for delays in fee collections, implementation, and possible inaccuracies in the projected number and type of applications. Since the budget discussions, Planning and HARC staff have analyzed the types of HARC permits processed, the amount of staff time required for review, processing and inspection. Based on this analysis and the historically high number of HARC applications which never result in a subsequent permit (between 30 and 40%) the new fees have been proposed.

The number of HARC applications processed has increased 37% over three years, 1304 in FY 09-10 vs. 2073 FY 11-12, indicating a strengthening economy. However, staff resources for processing applications have not increased. The addition of a fee may engender thoughtful rather scattershot applications.

Planning fees were also analyzed by the Planning staff to determine whether as presently constituted are appropriate. Planning fees were last updated in 2008. Rather than propose an across the board fee increase reflective of the rise in Consumer Price Index (CPI), staff has focused on fees that are non-existent for applications or services actually provided, and fees that are grossly small in relationship to the amount of work provided by staff. Also new Planning fees are proposed to account for the fact that in mid-2013, new Building Permit Allocations will be available and applications for obtaining such must be processed. The proposed fee schedule was reviewed with the Planning Board which endorsed all of the proposed changes.

The attached existing fee schedule has been modified to illustrate the revised and new fees, inclusive of HARC fees. Existing HARC fees are changed only at the time of actual building permit and again account for only 60-70% of the permits actually reviewed by the HARC Planner and HARC Commission. The fees are based on the value of the building permit, and are:

Table 1 – HARC Fee Schedule

Residential painting	\$ 10.00
Construction / Alterations / Repairs:	
Less than \$2,500	\$ 25.00
\$2,501 - \$15,000	\$ 50.00
\$15,001 - \$25,000	\$ 100.00
\$25,001 - \$50,000	\$ 125.00
\$50,001 - \$100,000	\$ 150.00
\$100,001 - \$200,000	\$ 200.00
\$200,001 - \$300,000	\$ 250.00
\$300,001 - \$400,000	\$ 300.00
\$400,001 - \$500,000	\$ 400.00
\$500,001 - \$1,000,000	\$ 500.00
\$1,000,000 or more	\$1,000.00
Demolitions	\$ 50.00

The new proposed HARC application fees to offset the cost of staff and HARC review, advertising, and meetings are the following:

Minor Project	\$ 50.00
Major Project	\$ 100.00
Inspection Fee	\$ 25.00

A Minor project is one that involves fencing, a minor alteration or addition, change of windows, etc. No application fee will be charged for residential painting. A Major project is one which involves a new commercial or residential structure(s), major additions, major remodelings, demolitions and structure relocations.

Previous City Actions: The City Commission approved the concept of HARC fees in the 2012-2013 budget. The City Commission approved Resolution 08-196 setting the present Planning Department fees, which did not include a fee for initial HARC applications.

Planning Staff Analysis: See background statement above. In addition it is staff's observation that the City needs to recover a portion, not all, of the costs of providing planning services provided to citizens recognizing that the Planning Department is not a self-funding enterprise district or cost center.

Options/Advantages/Disadvantages:

Option 1: Approve the revised Planning Department fees and new HARC fees.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would provide enhanced services consistent with mission and vision of the City
2. **Financial Impact:** There will be a direct positive impact to the City by providing better recovery of the costs of providing personnel for the Planning and HARC function to serve citizens.

Option 2: Do not approve the change in Planning Department fees and addition of new HARC fees.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** This action would not be consistent with providing cost effective services for the citizens wherein the applicant for a discretionary service pays for that privilege.
2. **Financial Impact:** There would continue to be a negative impact on the fiscal health of the City in that fees are not collected for professional services provided.

Attachments:

1. Draft resolution approving revised fee schedule
2. Proposed Fee Revision Schedule
3. City Commission Resolution 08-196
4. 2011-2012 HARC Year End Report

Recommendation

The Planning Department recommends approval of amending City Commission Resolution 08-196 to implement revised Planning Department fees and setting new HARC fees.

RESOLUTION NO. 08-196

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN UPDATE TO THE CITY OF KEY WEST PLANNING DEPARTMENT FEES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 90-487 of the Code of Ordinances allows the City Commission to establish fees, charges and expenses imposed by the Land Development Regulations by resolution; and

WHEREAS, the City Commission finds that updates to the Planning Department Fee Schedule are warranted to ensure that costs associated with implementing the Land Development Regulations are borne by those parties deriving the benefit of such services; and

WHEREAS, the City Commission finds the proposed fees are commensurate with anticipated costs.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF KEY WEST, FLORIDA, AS FOLLOWS:


Section 1. Fees and Rates. An adjustment be made to the Key West Planning Department fees in accordance with Exhibit "A".

Section 2. Effective Date. That 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.

Passed and adopted by the City Commission at a meeting held this 01 day of July, 2008.

Authenticated by the presiding officer and Clerk of the Commission on July 2, 2008.

Filed with the Clerk July 2, 2008.


Mark Rossi, Vice-Mayor

ATTEST:



CHERYL SMITH, CITY CLERK