

RESOLUTION NO. 2024-034

A RESOLUTION OF THE PLANNING BOARD CITY OF KEY WEST, FLORIDA, RECOMMENDING TO THE CITY COMMISSION APPROVAL OF AN AMENDMENT TO CHAPTER 110 OF THE LAND DEVELOPMENT REGULATIONS ENTITLED “RESOURCE PROTECTION” BY AMENDING ARTICLE VI ENTITLED “TREE PROTECTION”, BY ADDING SECTION 110-296 TITLED “USE OF FLORIDA STATUTE 163.045” TO PROVIDE DIRECTION TO FORESTRY STAFF TO CORRESPOND WITH THE INTERNATIONAL SOCIETY OF ARBORICULTURE REGARDING COMPLIANCE WITH F.S. 163.045.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-182 of the City’s Land Development Regulations assigns power and duty to the Tree Commission to protect and enhance the health, growth, and planting of trees in the city; and

WHEREAS, the City’s Land Development Regulations includes provisions for Resource Protection and more specifically Tree Protection; Section 110-251 of Article VI states in part, *“The city commission finds that trees on privately and publicly owned property within the city are economic and aesthetic assets to the citizens of the city, because of their important and meaningful contribution to a healthy, beautiful, and safer community, attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention and surface drainage improvement.”*; and

WHEREAS, on July 1, 2019, the State of Florida enacted Florida Statute (F.S) 163.045 regarding the removal of hazardous trees on residential properties; and

WHEREAS, F.S. 163.045 was further modified on July 1, 2022, and provides a process by which an arborist certified by the International Society of Arboriculture (ISA) or a Florida licensed landscape architect may assess and document “unacceptable risk” through an established tree risk assessment procedure and remove a tree thereby disallowing a local government from requiring any otherwise required

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to the City's Land Development Regulations as proposed herein given that the Tree Commission or the Urban Forester should be authorized to report ethics concerns to the ISA regarding tree removal; and

WHEREAS, the Planning Board for the City of Key West finds that reporting violations of certified arborists and landscape architects is critical to the promotion of the tree canopy within the city; and

WHEREAS, the Planning Board for the City of Key West finds that ensuring the certified arborists and landscape architects utilizing Florida Statute 163.045 to remove a hazardous tree or to perform heavy maintenance are complying with the statutory requirements can best be served by referring the violations to the tree commission for review; and

WHEREAS, the Planning Board held a noticed public hearing on November 20, 2024 and reviewed the proposed amendment to the Land Development Regulations in accordance with Section 90-522; and

WHEREAS, the Planning Board determined, in accordance with the criteria of Code Section 90-520(6) that the proposed amendment is consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; is 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 is in the public interest;

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.

Section 2: That Section 110-296 of the Code of Ordinances is hereby added as follows:

Sec. 110-296 – Use of Florida Statute 163.045



- (5) If the urban forestry manager is of the opinion that the merits of the documentation supporting the tree removal or heavy maintenance fails to qualify for the Statutory Exemption under Florida Statute 163.045 or ISA standards, the urban forestry manager may refer the documentation to the Tree Commission for review and finding.
- (6) Upon a finding that the documentation, used by a certified arborist or licensed landscape architect to remove trees or perform heavy maintenance, fails to qualify for the Statutory Exemption under Florida Statute 163.045 or ISA Standards, staff shall report the certified arborist or landscape architect to the ISA or the Department of Business and Professional Regulation, as appropriate.
- (7) If the documentation is referred to the Tree Commission, the certified arborist or landscape architect shall receive reasonable notice of the Tree Commission meeting that the documentation will be reviewed at.

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 Planning Board.

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 Commerce (DOC). 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 DOC with all exhibits and applications attached to or incorporated by reference to this approval; that within the forty-five (45) day review period the DOC 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 duly noticed public meeting held this 20th day of November,

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