

**PLANNING BOARD
RESOLUTION NO. 2022-038**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD RECOMMENDING AN ORDINANCE TO THE CITY COMMISSION TO AMEND CHAPTER 122 OF THE LAND DEVELOPMENT REGULATIONS, ARTICLE V “SUPPLEMENTARY DISTRICT REGULATIONS”, BY ADDING DIVISION 15. – SHORT TERM RENTALS, SECTION 122-1560. – “PURPOSE AND INTENT”; SECTION 122-1561 – “APPLICATIONS”; SECTION 122-1562 – “REBUTTABLE PRESUMPTIONS OF VIOLATION”; SECTION 122-1563 – “REGULATIONS”; SECTION 122-1564 – “LICENSE TRANSFER”; SECTION 122-1565 – “FEES”; AND SECTION 122-1566 – “PENALTIES”; 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 122, Article V – Supplementary District Regulations, by adding Division 15 – Short Term Rentals, Sections 122-1560, 122-1561, 122-1562, 122-1563, 122-1564, 122-1565 and 122-1566 of the Land Development Regulations (the “LDRs”) pursuant to provisions of Chapters 163, 166, and 380 of the Florida State Statutes; and

WHEREAS, permanent long-term housing is currently one of the biggest challenges for the City’s permanent residents due to extremely high property values, limited land on which to build and a significant amount of vacation rentals, all of which have negatively affected the housing supply; and

WHEREAS, the housing crisis is exacerbated in that long-term permanent housing stock demand exceeds the housing supply;

WHEREAS, the amendment will assist in the preservation of the long-term permanent housing supply; and

WHEREAS, these amendments were reviewed pursuant to criteria in Section 90-520 and Section 90-522 of the Land Development Regulations; and

WHEREAS, these proposed amendments to the Land Development Regulations were presented to the Planning Board with a recommendation of approval at its regularly scheduled meeting on June 16,

 Chairman

 Planning Director

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.

Section 2. That the proposed amendment to Chapter 122, Article V of the Land Development Regulations is recommended for approval; the changes are as follows: *

DIVISION 15. SHORT TERM RENTALS

Sec. 122-1560 – Purpose and Intent.

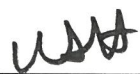
The purpose and intent of this division is to identify and regulate a short-term rental category that involves tenancies that are greater than or equal to 30 days or one calendar month, up to six months in a new category of rentals. The city finds that these rentals typically do not promote permanent or longer termed residents that contribute to the workforce of the city. The city specifically finds that the proliferation of such rentals, tempered by the limited housing inventory of a small, tourist-based island have substantially contributed to a critical shortage of affordable housing. By permitting the transfer of one to six month short-term rentals to denser, commercially-oriented zoning districts that permit transient rentals, the city finds that the number of residential rentals that are typically occupied by longer tenants that live and work in the city will increase, while also improving the quality of life of existing long term rentals and homeowners.

Sec. 122-1561. Application.

- (a) There shall be an application period to obtain a business tax receipt and regulatory permit under this division. Applications will be accepted if received by the Licensing Division of the City of Key West for thirty (30) calendar days after the effective date of this ordinance.

Applications must show the following:

- (1) A valid non-transient business tax receipt that existed on April 20, 2022;
- (2) Proof of ownership of the subject property including the name, address, and phone number of any other person with an ownership interest in the subject property;
- (3) An approved inspection report from the fire marshal of the Key West Fire Department;
- (4) The gross square footage of the property, including the number of rooms, bedrooms, kitchens, and on-site parking attributable to the rental use;

 Chairman

 Planning Director

- (5) A valid Florida Department of Revenue sales tax identification number under Chapter 212 of Florida Statutes;
 - (6) A valid Florida Department of Revenue sales tax revenue identification number pursuant to Chapter 212, Florida Statutes, and a valid license pursuant to Chapter 509, Florida Statutes;
 - (7) The name, address and phone number of a 24-hour representative who will be operating the property's accommodations;
 - (8) Signatures of all owners, authorized agents and property managers.
- (b) If a license issued under this article is not timely renewed in any given year, the property will forfeit any rights for a license renewal.

Sec. 122-1562. Rebuttable Presumptions of Violation.

- (a) It shall be unlawful for a property owner, tenant, real estate agent/broker, agent, or representative to rent, lease, let, or otherwise cause to be occupied any residential dwelling unit or any part thereof for a tenancy that is greater than or equal to 30 days or one calendar month, up to six months without the benefit of a valid business tax receipt issued by the City of Key West under this division.
- (b) There shall be a rebuttable presumption of a violation of this division upon the showing of any of the following:
 - (1) A lease between a property owner, tenant, real estate agent/broker, agent, or representative and a tenant for a term greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;
 - (2) An advertisement in any print or electronic medium or platform that represents a residential property available for rent or lease for a term greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;
 - (3) Competent, substantial evidence that is presented by any person who established a pattern of activity generally associated with a tenancy that is greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;

Sec. 122-1563. Regulations.

- (a) Each residential unit that is rented, leased, or let under this division shall obtain and display a property medallion prominently on the outside of the unit to alert the public of the rental use. The Licensing Division of the City of Key West shall issue instructions for posting.
- (b) A contact person must be identified to the Licensing Division at the time of application, who must be available 24 hours a day, seven days a week for the purpose of promptly responding to complaints regarding the conduct of the occupants of the rental unit. The name and phone number must be prominently posted on or near the medallion in paragraph (a). The names of any subsequent, replacement or temporary representatives must be given to the Licensing Division of the City of Key West within 24 hours of replacement.

WJA Chairman

KPIT Planning Director

- (c) As a continuing condition to the application, the fire marshal for the City of Key West must inspect and the owner shall maintain certification of the rental unit based on applicable life safety criteria, including but not limited to occupancy and safe means of ingress and egress. The owner of a rental unit pursuant to this division must immediately report any physical changes to rental unit that can affect the fire marshal's certification.
- (d) Occupancy limits must conform to the limits set in the most recent edition of the Florida Building Code.
- (e) Rental units must comply with all applicable aspects of the Americans with Disabilities Act.
- (f) The owner or property manager of a licensed rental unit under this division shall keep and maintain a written or digital record of all tenants who occupy the rental unit, as well as the make, color, model and license plate information of the tenants' vehicles.
- (g) The owner or property manager of a licensed rental unit under this division shall provide one off-street parking space per licensed rental unit. If the unit is located in the historic district, the owner or property manager shall instruct all tenants to park in lawful, non-resident only spaces.
- (h) All rental agreements must contain a provision that the tenant(s) agree to the regulatory provisions herein.
- (i) It shall be a violation of this division to enter into a lease with a term longer than six months, or a lease pursuant to this division with the intent to have any occupancy of a period that would otherwise be subject to this division, or for a period that violates Sec. 18-601 or Sec. 122-1371. Such a contract shall be deemed a sham contract.
- (j) It shall be a violation of this division for a property owner, agent, or representative to lease space to "roommates" for a period regulated under this division when not licensed as provided herein. For purposes of enforcement, a rebuttable presumption shall exist that roommates use a common entrance to a unit.

Sec. 122-1564. License Transfer.

- (a) A business tax receipt for a tenancy that is greater than or equal to 30 days or one calendar month, up to six months under this article may itself be transferred from an area where transient rentals as defined by Sec. 18-601 and Sec. 122-1371 are prohibited to a receiver site where transient rental uses under Sec. 18-601 and Sec. 122-1371 are permitted. A transfer of a license under this section shall not result in a loss of affordable housing at the receiver site.
- (b) Where a license alone is transferred, the planning board shall consider whether the receiver site is suitable for use under this article in the receiving zoning district, shall consider the relative square footage of the unit from which the license is transferred, and shall consider the room configuration of both sites to maintain approximately the same or less net number of occupants.

Sec. 122-1565. Fees.

- (1) A person or entity who holds a rental business tax receipt pursuant to this division shall pay the customary annual business tax receipt fee pursuant to Sec. 66-109 for non-transient rental, plus an annual inspection and enforcement fee of \$300.00 upon the filing of the initial application set forth in Sec. 122-1561.
- (2) Fee revenues raised under this section shall be used to fund a position in the code enforcement division, and to provide enforcement and processing personnel as needed. The officer holding this

USA Chairman

KPH Planning Director

position shall have as his or her primary responsibility the enforcement of the terms and conditions of this division, and other related city regulations.

- (3) For a period of thirty days after the effective date of this section, the licensing division will receive initial applications pursuant to Sec. 122-1561 and related fees. In all subsequent years after the initial application, annual processing fees shall be paid at the same time as the business tax receipt, except that pursuant to Sec. 122-1561(b), no late applications will be accepted. The city manager may determine to pro-rate the initial processing fee.

Sec. 122-1566. Penalties.

A violation of this section shall be punishable in county court as a 2nd degree misdemeanor and by a fine of up to \$500.00 per day, per unit, per violation.

The code compliance officer may also enforce the terms of this section by bringing a case to the code enforcement special master pursuant to its authority under law and ordinance. In addition, any license or permission granted hereunder may be revoked for cause, upon notice and opportunity to be heard, by the City Commission. In addition to any other remedy available to the city, the city or any adversely affected party may enforce the terms of this section in law or equity. Any citizen of Key West may seek injunctive relief in a court of competent jurisdiction to prevent a violation of this section. The city, by and through its code enforcement division, may apply for an administrative search warrant to enter upon the premises of any residence subject to this section.

**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.

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

WSH Chairman

KPH Planning Director

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 16th day of June, 2022.

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

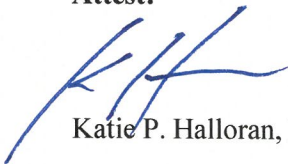


Sam Holland, Planning Board Chair

6/24/22

Date

Attest:



Katie P. Halloran, Planning Director

6/24/2022

Date

Filed with the Clerk:



Cheryl Smith, City Clerk

6-24-22

Date

 Chairman

 Planning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 122 OF THE CODE OF ORDINANCES, TITLED "ZONING", ARTICLE V TITLED "SUPPLEMENTARY DISTRICT REGULATIONS", BY ADDING DIVISION 15 TITLED "SHORT TERM RENTALS"; BY CREATING SEC. 122-1560 TITLED "PURPOSE AND INTENT"; BY CREATING SEC. 122-1561 TITLED "APPLICATIONS", BY CREATING SEC. 122-1562 TITLED "REBUTTABLE PRESUMPTIONS OF VIOLATION"; BY CREATING SEC. 122-1563 TITLED "REGULATIONS"; BY CREATING SEC. 122-1564 TITLED "LICENSE TRANSFER"; BY CREATING SEC. 122-1565 TITLED "FEES"; BY CREATING SEC. 122-1566 TITLED "PENALTIES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West finds that there has been a proliferation of licensed and unlicensed short-term rentals from one to six months that affect the peaceful enjoyment of property owned and/or occupied by longer term and permanent residents; and

WHEREAS, the City Commission for the City of Key West finds that short term and seasonal rentals defined as residential rentals that are greater than or equal to 30 days or one calendar month, up to six months would be more

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consistently and appropriately zoned in areas where transient rentals are permitted; and

WHEREAS, The City Commission for the City of Key West finds that competent, substantial evidence has been received to assert that creating this new short term rental category will promote the health safety and welfare of long term and permanent residents by promoting longer tenancies in appropriate residential districts, and permitting the transfer one to six month short term rentals from districts where they are not permitted to districts where transient rentals are permitted. 16

WHEREAS, These ordinances were presented to and passed by the Planning Board for the City of Key West on June 16, 2022 via Planning Board Resolution 2022-040,

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

Section 1: That Section 122-1560 is hereby added to the Code of Ordinances as follows*:

Sec. 122-1560 - Purpose and Intent.

The purpose and intent of this division is to identify and regulate a short-term rental category that involves tenancies that are greater than or equal to 30 days or one calendar month, up to six months in a new category of rentals. The city finds that these rentals typically do not promote permanent or longer termed residents that contribute to the workforce of the city. The city specifically finds that the proliferation of such rentals, tempered by the limited housing inventory of a small, tourist-based island have substantially contributed to a critical shortage of affordable housing. By permitting the transfer of one to six month short-term rentals to denser, commercially-oriented zoning districts that permit transient rentals, the city finds that the number of residential rentals that are typically occupied by longer tenants that live and work in the city will increase, while also improving the quality of life of existing long term rentals and homeowners.

*(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: That Section 122-1561 is hereby added to the Code of Ordinances as follows:

Sec. 122-1561- Application

- (a) There shall be an application period to obtain a business tax receipt and regulatory permit under this division. Applications will be accepted if received by the Licensing Division of the City of Key West for thirty (30) calendar days after the effective date of this ordinance.

Applications must show the following:

- (1) A valid non-transient business tax receipt that existed on April 20, 2022;
- (2) Proof of ownership of the subject property including the name, address, and phone number of any other person with an ownership interest in the subject property;
- (3) An approved inspection report from the fire marshal of the Key West Fire Department;
- (4) The gross square footage of the property, including the number of rooms, bedrooms, kitchens, and on-site parking attributable to the rental use;

- (5) A valid Florida Department of Revenue sales tax identification number under Chapter 212 of Florida Statutes;
 - (6) A valid Florida Department of Revenue sales tax revenue identification number pursuant to Chapter 212, Florida Statutes, and a valid license pursuant to Chapter 509, Florida Statutes;
 - (7) The name, address and phone number of a 24-hour representative who will be operating the property's accommodations;
 - (8) Signatures of all owners, authorized agents and property managers.
- (b) If a license issued under this article is not timely renewed in any given year, the property will forfeit any rights for a license renewal.

Section 3: That Section 122-1562 is hereby added to the Code of Ordinances as follows:

Sec. 122-1562 - Rebuttable Presumptions of Violation

- (a) It shall be unlawful for a property owner, tenant, real estate agent/broker, agent, or representative to rent, lease, let, or otherwise cause to be

occupied any residential dwelling unit or any part thereof for a tenancy that is greater than or equal to 30 days or one calendar month, up to six months without the benefit of a valid business tax receipt issued by the City of Key West under this division.

- (b) There shall be a rebuttable presumption of a violation of this division upon the showing of any of the following:
- (1) A lease between a property owner, tenant, real estate agent/broker, agent, or representative and a tenant for a term greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;
 - (2) An advertisement in any print or electronic medium or platform that represents a residential property available for rent or lease for a term greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;

- (3) Competent, substantial evidence that is presented by any person who established a pattern of activity generally associated with a tenancy that is greater than or equal to 30 days or one calendar month, up to six months without a valid business tax receipt and regulatory permit issued by the City of Key West pursuant to this division;

Section 4: That Section 122-1563 is hereby added to the Code of Ordinances as follows:

Sec. 122-1563 - Regulations.

- (a) Each residential unit that is rented, leased, or let under this division shall obtain and display a property medallion prominently on the outside of the unit to alert the public of the rental use. The Licensing Division of the City of Key West shall issue instructions for posting.
- (b) A contact person must be identified to the Licensing Division at the time of application, who must be available 24 hours a day, seven days a week for the purpose of promptly responding to complaints regarding the conduct of the occupants

of the rental unit. The name and phone number must be prominently posted on or near the medallion in paragraph (a). The names of any subsequent, replacement or temporary representatives must be given to the Licensing Division of the City of Key West within 24 hours of replacement.

- (c) As a continuing condition to the application, the fire marshal for the City of Key West must inspect and the owner shall maintain certification of the rental unit based on applicable life safety criteria, including but not limited to occupancy and safe means of ingress and egress. The owner of a rental unit pursuant to this division must immediately report any physical changes to rental unit that can affect the fire marshal's certification.
- (d) Occupancy limits must conform to the limits set in the most recent edition of the Florida Building Code.
- (e) Rental units must comply with all applicable aspects of the Americans with Disabilities Act.
- (f) The owner or property manager of a licensed rental unit under this division shall keep and maintain a written or digital record of all tenants who

occupy the rental unit, as well as the make, color, model and license plate information of the tenants' vehicles.

- (g) The owner or property manager of a licensed rental unit under this division shall provide one off-street parking space per licensed rental unit. If the unit is located in the historic district, the owner or property manager shall instruct all tenants to park in lawful, non-resident only spaces.
- (h) All rental agreements must contain a provision that the tenant(s) agree to the regulatory provisions herein.
- (i) It shall be a violation of this division to enter into a lease with a term longer than six months, or a lease pursuant to this division with the intent to have any occupancy of a period that would otherwise be subject to this division, or for a period that violates Sec. 18-601 or Sec. 122-1371. Such a contract shall be deemed a sham contract.
- (j) It shall be a violation of this division for a property owner, agent, or representative to lease space to "roommates" for a period regulated under

this division when not licensed as provided herein. For purposes of enforcement, a rebuttable presumption shall exist that roommates use a common entrance to a unit.

Section 5: That Section 122-1564 is hereby added to the Code of Ordinances as follows:

Sec. 122-1564 - License Transfer.

(a) A business tax receipt for a tenancy that is greater than or equal to 30 days or one calendar month, up to six months under this article may itself be transferred from an area where transient rentals as defined by Sec. 18-601 and Sec. 122-1371 are prohibited to a receiver site where transient rental uses under Sec. 18-601 and Sec. 122-1371 are permitted. A transfer of a license under this section shall not result in a loss of affordable housing at the receiver site.

(b) Where a license alone is transferred, the planning board shall consider whether the receiver site is suitable for use under this article in the receiving zoning district, shall consider the relative size square footage of the unit from which the license is transferred, and

shall consider the room configuration of both sites to maintain approximately the same or less net number of occupants.

Section 6: That Section 122-1565 is hereby added to the Code of Ordinances as follows:

Sec. 122-1565 - Fees.

(1) A person or entity who holds a rental business tax receipt pursuant to this division shall pay the customary annual business tax receipt fee pursuant to Sec. 66-109 for non-transient rental, plus an annual inspection and enforcement fee of \$300.00 upon the filing of the initial application set forth in Sec. 122-1561.

(2) Fee revenues raised under this section shall be used to fund a position in the code enforcement division, and to provide enforcement and processing personnel as needed. The officer holding this position shall have as his or her primary responsibility the enforcement of the terms and conditions of this division, and other related city regulations.

(3) For a period of thirty days after the effective date of this section, the licensing division will receive initial applications pursuant to Sec. 122-1561 and related fees. In

all subsequent years after the initial application, annual processing fees shall be paid at the same time as the business tax receipt, except that pursuant to Sec. 122-1561(b), no late applications will be accepted. The city manager may determine to pro-rate the initial processing fee.

Section 7: That Section 122-1566 is hereby added to the Code of Ordinances as follows:

Sec. 122-1566 - Penalties.

A violation of this section shall be punishable in county court as a 2nd degree misdemeanor and by a fine of up to \$500.00 per day, per unit, per violation.

The code compliance officer may also enforce the terms of this section by bringing a case to the code enforcement special master pursuant to its authority under law and ordinance. In addition, any license or permission granted hereunder may be revoked for cause, upon notice and opportunity to be heard, by the city commission. In addition to any other remedy available to the city, the city or any adversely affected party may enforce the terms of this section in law or equity. Any citizen of Key West may seek injunctive relief in a court of competent

jurisdiction to prevent a violation of this section. The city, by and through its code enforcement division, may apply for an administrative search warrant to enter upon the premises of any residence subject to this section.

Section 8: 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 9: 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 10: 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