

RESOLUTION NO. 24-067

**A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF KEY WEST, FLORIDA,
ESTABLISHING A "FANTASY ZONE" DURING
CERTAIN HOURS AND LOCATIONS DURING
FANTASY FEST 2024 IN THE CITY OF KEY
WEST; ESTABLISHING RESPONSIBILITIES AND
PROCEDURES FOR THE TOURIST DEVELOPMENT
ASSOCIATION AND FOR CITY STAFF; PROVIDING
FOR AN EFFECTIVE DATE**

WHEREAS, in Resolution Res No 94-404, and over many years since then (most recently Resolution 16-128, 21-021 and 22-155), the City Commission approved agreements for Fantasy Fest activities that included a provision for the establishment of a "Fantasy Zone" during the Friday of Fantasy Fest and Saturday Parade; and

WHEREAS, the "Fantasy Zone" provided geographical limits wherein certain body paint in conformance with Code of Ordinances Section 42-9 would be allowed, along with relaxed enforcement of open container regulations during parts of the week-long festival; and

WHEREAS, the Fantasy Fest Agreement approved in Resolution No. 22-147 does not include provisions for a specific "Fantasy Zone," however the City Commission finds that for public safety reasons including crowd management and the challenges of enforcement, it is prudent to establish a "Fantasy Zone" for Fantasy Fest 2024; and

WHEREAS, the City Commission finds establishment of a Fantasy Zone would benefit the health, welfare and safety of residents and visitors to the City of Key West; and

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

Section 1: That the City Commission hereby establishes a "Fantasy Zone," in the location depicted on the attached "Exhibit A" (Duval Street from the Gulf to Truman Avenue, and side streets from Duval Street to and including Whitehead Street and Simonton Streets) to be effective from 4 p.m. on Friday, October 25, 2024 through 4:00 am on Saturday October 26, 2024 and from 4:00 pm on Saturday October 26, 2024 through 4:00 am on Sunday October 27, 2024.

Section 2: In the designated "Fantasy Zone" the Tourist Development Association shall:

a. Arrange for trash and recycle receptacles and post signs in letters no less than 2" in height as follows: "NO ALCOHOLIC BEVERAGES, BODY PAINTING OR PERSONS IN VIOLATION OF THE NUDITY ORDINANCE ALLOWED BEYOND THIS POINT."

b. Assign monitors to patrol the Fantasy Zones requesting persons leaving to deposit all alcoholic beverages into trash and recycle receptacles and advising participants of the city's nudity laws.

c. Provide port-a-potties as directed by the City Manager.

d. Ensure that persons engaged in body painting and airbrushing are not located on public property.

2. The City agrees to provide barricades, traffic regulatory signs, close those streets and prohibit parking on said streets as indicated in the attached Exhibit "A" during the designated "Fantasy Zone" hours.

Section 3: 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 11th day of April, 2024.

Authenticated by the Presiding Officer and Clerk of the Commission on 11th day of April, 2024.

Filed with the Clerk on April 11, 2024.

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


TERI JOHNSTON, MAYOR

ATTEST:


KERI O'BRIEN, CITY CLERK



MEMORANDUM

Date: April 11, 2024

To: Honorable Mayor and Commissioners

From: Ronald Ramsingh, City Attorney

Subject: Designation of the Fantasy Zone for Fantasy Fest 2024

Sponsor: Ronald Ramsingh, City Attorney

Introduction

This Resolution is being brought to the City Commission for consideration to set out the boundaries of the Fantasy Zone, pursuant to Sec. 42-9.

Background

On June 21, 2022, the CC passed Resolution 22-147 that ratified a 3-year contract with the TDA to run Fantasy Fest. That 3-year contract does not mention the Fantasy Zone. There was a very lengthy discussion by the City Commission at that meeting establishing the need to have a Fantasy Zone. The prior 5-year contract with the TDA that was approved in Resolution 16-128 established the Fantasy Zone by exhibit. This is the methodology that had been used in prior agreements, which is then tempered by Sec. 42-09 that sets out what one can and cannot do in the Fantasy Zone.

After the current 3-year contract was executed, my predecessor brought a Resolution for the Commission to consider on July 6, 2022 (22-155), at the direction of the City Commission. The Current contract expires in Summer 2025. This was to fill in the gap regarding the Fantasy Zone that was not included in the contract. When I was informed about the desire to dissolve the Fantasy Zone for 2023, I had the same concern. Sec. 42-9 controls and it establishes a Fantasy Zone where females can be topless, so long as their breasts are painted. If that geographical boundary is not spelled out under Sec. 42-9, the City stands to be exposed if someone were to be arrested for nudity for painted breasts- especially in an area that has historically been considered the Fantasy

Zone. Additionally, you will recall that at that July 2022 meeting, Chief Brandenburg, Jim Young, and Jason Barroso all urged you to keep the Zone due to enforcement issues.

To be clear, nudity in any form is not permitted anywhere in the city at any time- no matter the time of the year. Pursuant to Sec. 42-9, genitals, the pubic area and buttocks cannot be exposed- *regardless if they are painted or not*. The only consideration that is given, is regarding female breasts in the “Fantasy Zone”. Specifically, under 42-9, body painting will be considered as an exception to clothing in this ordinance, only within the Fantasy Zone as that area is determined by the Commission- and only for certain days of Fantasy Fest. Therefore, under no circumstances can a female be outside of that zone with painted breasts if her breasts are not covered from the top of her nipple, down with an opaque covering (clothes). A pastie in that circumstance that only covers the areola and nipple would not qualify as an exemption to the nudity rule if she were outside of the Zone.

From my perspective, Sec. 42-9 establishes the Fantasy Zone and only the City Commission can set the boundaries of it. In my legal opinion, the Fantasy Zone cannot be eliminated by Resolution or by fiat. It can only be deleted by an ordinance amendment.

The City Commission has directed the City Manager to conduct community workshops ahead of entering a new multi-year contract for 2025. Those workshops have not taken place as yet.

I discussed the 2023 and 2024 Resolutions with Nadene Grossman Orr of the TDA and she is in favor of approval.

Procurement

This measure does not have any direct impact on procurement.

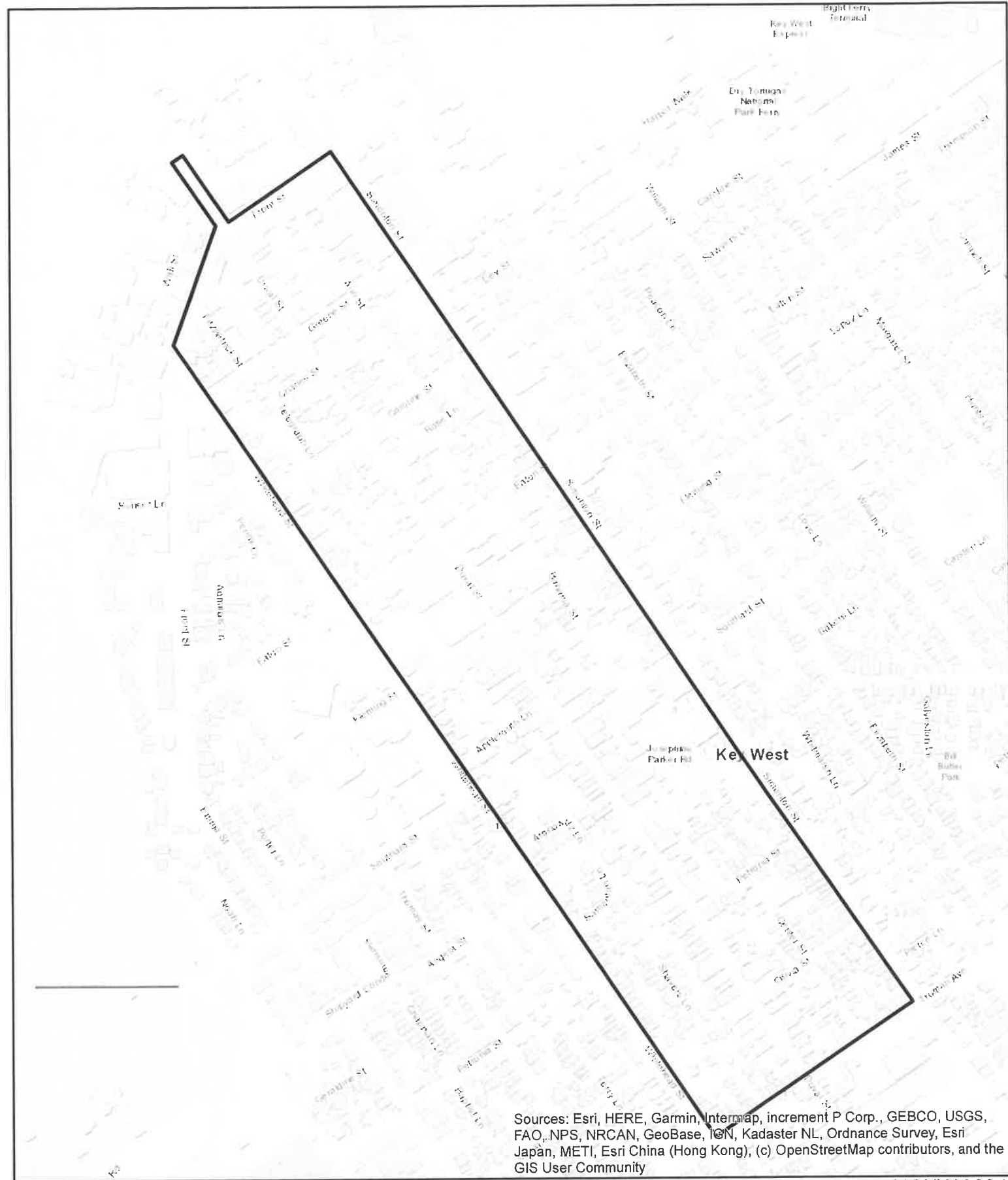
Recommendation

I recommend approval of this Resolution to set out the parameters of the Fantasy Zone in advance of the 2024 Fantasy Fest so as to avoid confusion and legal exposure with the public, visitors, and law enforcement - as the City Commission did on July 6, 2022 and October 13, 2023.



FANTASY ZONE 2024

Exhibit A



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community