

Revised for
Second Reading
March 7, 2006

ORDINANCE NO. 06-05

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 8.01 OF THE KEY WEST CHARTER, PROPOSING THAT SECTION 1.05 OF THE KEY WEST CHARTER BE AMENDED TO PROVIDE AN EXCEPTION TO REFERENDUM FOR HEIGHT VARIANCES GRANTED BY THE BOARD OF ADJUSTMENT TO AFFORDABLE HOUSING PROJECTS; SETTING THE GENERAL ELECTION OF SEPTEMBER 5, 2006, AS THE DATE OF REFERENDUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes Section 166.031 and Key West Charter Section 8.01(a) provide the City Commission with the authority to propose by ordinance a Charter amendment; and

WHEREAS, the City shall follow Florida Statutes Section 100.342 concerning notice of a referendum and Florida Statutes Section 101.161 concerning preparation of the referendum ballot; and

WHEREAS, the City Commission desires to obtain electorate approval to provide an exception for height variances granted by the Board of Adjustment to affordable housing projects; and

WHEREAS, the City Commission desires that the proposed referendum appear on the General Election ballot of September 5, 2006;

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

Section 1: An amendment to Key West Charter section 1.05 shall hereby be presented as a referendum to the voters of Key West. The question appearing on the ballot shall have the following title: "Referendum - Exception for affordable housing projects to referendum requirement for height variances." The question appearing on the ballot shall be worded as follows:

Shall an exception to the requirement that voters must ratify by referendum a height variance for habitable space, granted by the Key West board of adjustment, be established for proposed projects whose total number of dwelling units are affordable?

YES

NO

Section 2: In the event of the passage of the proposed Charter amendment set forth in section 1, above, Section 1.05 of the Key West Charter shall be amended as follows:

1.05 Height restriction.

(a) Building height restrictions in the city's land development regulations and building code in effect as of the adoption of this charter section are subject to change only upon approval of a majority of the qualified electors casting ballots at a general municipal election.

(b) Except as provided in subsection (c), if the board of adjustment approves a height variance for habitable building space, this approval shall be submitted to the voters for ratification in the next regularly scheduled election. Board of adjustment approval shall not become effective until voter ratification. Board of adjustment height variances for nonhabitable purposes, including, but not limited to, radio towers, antennae and spires, shall be final and not be subject to referendum. Board of adjustment height variances for a build back of involuntarily destroyed structures which are nonconforming in their height shall also be final and not be subject to referendum.

(c) No referendum shall be required for a height variance approved by the board of adjustment for habitable space for an affordable housing project. To qualify for this exception, the total number of dwelling units of the proposed project shall be affordable in accordance with the provisions of Key West's affordable housing ordinance, as amended, and the project shall not mix uses.

Section 3: The City Clerk is hereby authorized and instructed to take all necessary and proper action to place the referendum question set forth in Section 1, above, on the General Election ballot of September 5, 2006, and to provide notice of the referendum election as provided by law.

Section 4: 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 5: 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 6: 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 22nd day of February, 2006.

Read and passed on final reading at a regular meeting held this 7th day of March, 2006.

Authenticated by the presiding officer and Clerk of the Commission on 8th day of March, 2006.

Filed with the Clerk March 8, 2006.


MORGAN McPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK