

ORDINANCE NO. 12-13

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTION 90-553 TO LIFT THE TWICE PER YEAR RESTRICTION ON COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with certain procedures and criteria;

WHEREAS, pursuant to Section 90-522, the Planning Board held a noticed public hearing on April 23, 2012; where based on the consideration of recommendations of the City Planner, City Attorney, Building Official and other information recommended approval of the proposed amendments with modifications; and

WHEREAS, the City Commission held a noticed public hearing on 5-15-12 and a second public hearing on 6-5-12 and in its deliberations considered the criteria identified in Section 90-521 of the Code of Ordinances; and

WHEREAS, the City determined that the proposed amendments are: consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are 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 are in the public interest.

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

Section 1: That Chapter 90, Article VI. Amendments, of the Code of Ordinances is hereby amended as follows\*:

**Sec. 90-553 Initiation.**

Pursuant to this division, site-specific comprehensive plan amendments may be proposed by the city commission, the planning board, the city manager or the owner of real property within the city affected by the proposed amendment or the agent of such owner. In addition to site-specific amendments, the city commission, the

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

planning board or city manager may initiate general amendments to the comprehensive plan. ~~Comprehensive plan amendments shall only occur two times each calendar year. The schedule for such amendments shall be established by resolution of the city commission.~~

Section 2: 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 3: 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 4: 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 State Land Planning Agency pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held  
this 15th day of May, 2012.

Read and passed on final reading at a regular meeting held  
this 5th day of June, 2012.

Authenticated by the presiding officer and Clerk of the  
Commission on 5th day of June, 2012.

Filed with the Clerk June 6, 2012.

  
\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY THE CITY OF KEY WEST,  
FLORIDA, ORDINANCE NO. 12-13

2012 AUG -6 PM 3:37  
KEY WEST, FLORIDA

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FINAL ORDER

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat. (2012), approving land development regulations adopted by the City of Key West, Florida, Ordinance No. 12-13 (the “Ordinance”).

FINDINGS OF FACT

1. The City of Key West is designated pursuant to § 380.05(1), Fla. Stat. (2012), and Chapter 28-36, Florida Administrative Code, as an area of critical state concern. Land development regulations adopted by the City of Key West do not become effective until approved by the Department by final order. §§ 380.05(6) and (11), Fla. Stat. (2012).
2. The Ordinance was adopted by the City of Key West on June 5, 2012, and rendered to the Department on July 5, 2012.
3. The Ordinance amends Chapter 90 of the Key West Code of Ordinances entitled “Administration,” by amending Section 90-553 to remove the twice per year limitation on general comprehensive plan amendments. This amendment is consistent with the 2011 amendment to Section 163.3187(1), Florida Statutes, to remove the same twice per year limitation on plan amendments.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11), Fla. Stat. (2012).

5. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2012). The regulations adopted by the Ordinance are land development regulations.

6. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and (11), Fla. Stat. (2012). The Principles for Guiding Development for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Florida Administrative Code.

7. The Ordinance is consistent with the Principles for Guiding Development as a whole, and specifically furthers the following Principle:

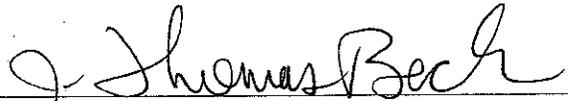
(a) To strengthen local government capabilities for managing land use and development.

8. The Ordinance is consistent with the City of Key West Comprehensive Plan.

WHEREFORE, IT IS ORDERED that City of Key West Ordinance No. 12-13 is found to be consistent with the Principles for Guiding Development for the City of Key West Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.

  
\_\_\_\_\_  
J. THOMAS BECK, AICP  
Director, Division of Community Development  
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS **RECEIVED** BY:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF GENERAL COUNSEL  
107 EAST MADISON STREET, MSC 110  
TALLAHASSEE, FLORIDA 32399-4128.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 2nd day of August, 2012.



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Miriam Snipes, Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

By U.S. Mail:

The Honorable Craig Cates  
Mayor, City of Key West  
3216 Flagler Avenue  
Key West, FL 33040

Cheryl Smith, City Clerk  
3216 Flagler Avenue  
Key West, FL 33040

Donald Leland Craig, AICP  
City Planner  
3140 Flagler Avenue  
Key West, FL 33040

By Hand Delivery or Interagency Mail:

Rebecca Jetton, ACSC Administrator, DEO Tallahassee  
Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

## EXECUTIVE SUMMARY



**To:** Jim Scholl

**From:** Donald Leland Craig, AICP, Planning Director

**Meeting Date:** May 15, 2012

**RE:** Chapter 90 Administration Ordinance Amendment – Consideration of an ordinance of the City of Key West, Florida, amending Chapter 90 of the Code of Ordinances entitled “Administration” by amending Section 90-553 to lift the twice per year restriction on Comprehensive Plan amendments; providing for repeal of inconsistent provisions; providing for an effective date.

**Location:** Citywide

**Background:** On June 2, 2011, House Bill 7207 was signed into law; significantly amending Chapter 163 of the Florida Statutes (F.S.). One notable change was the deletion of the twice per year limit on plan amendment frequency (line 5931 of House Bill 7207). Section 90-553 of the City of Key West Code of Ordinances provides that “Comprehensive plan amendments shall only occur two times each calendar year. The schedule for such amendments shall be established by resolution of the City Commission.”

Though Section 90-553 of the City Code is still consistent with the statutory requirements, it is now a more restrictive requirement, and as such, the City’s schedule for comprehensive plan amendments has been maximized for the remainder of the 2012 calendar year. The Planning Department has been processing amendments to comply with other aspects of House Bill 7207, including an amendment to provide for the coordination strategies and compatibility of lands adjacent to or proximate to military installations (as required by Chapter 163.3175 and 163.3177). Also, the Planning Department has been working on a Future Land Use Map and Future Land Use designation for the property known as the Peary Court Housing Complex (RE# 00006730-000000), due to the impending land sale of the property by the military to a non-military entity. The Planning Department has also been working on preparing the Evaluation and Appraisal Report (EAR) amendments to the Comprehensive Plan, and is required to prepare and transmit the subject amendments by December 29, 2012. The three Comprehensive Planning initiatives identified are necessary amendments maintaining compliance with changes in state legislation, as well as unforeseen circumstances requiring City action. As such, it is imperative to amend Section 90-553 of the City Code, or otherwise request a variance to the provision at the time of consideration the proposed EAR amendments. In addition, in the coming year of 2013 other Comprehensive Plan amendments will be necessary as follow on amendments to the Comprehensive Plan as the City moves to implement a “City Beautiful Program” and

create the follow on amendments that will become necessary as a result of the Hurricane Evacuation Workshops

**Planning Staff Analysis:**

The Planning staff and Planning Board as well as the City Commission are required to review the criteria contained in Chapter 90 of the Land Development Regulations in considering any change to the regulations or the zoning map of the City . The criteria and the analysis of the same are listed below.

**Review Criteria:**

Section 90-522 of the Code of Ordinances outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

**Sec. 90-522. Planning Board review of proposed changes in Land Development Regulations.**

**(a) The Planning Board, regardless of the source of the proposed change in the Land Development Regulations, shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change of zoning to the City Commission for official action. In its deliberations the Planning Board shall consider the criteria stated in section 90-521.**

**Sec. 90-521. Criteria for approving amendments to official zoning map.**

In evaluating proposed changes to the official zoning map, the city shall consider the following criteria:

**(1) *Consistency with plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure, minimum levels of service standards and the concurrency management program.**

The proposed change does not impact the official zoning map or underlying future land use map designations. Those decisions are made at the appropriate time by the City Commission.

**(2) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposed modifications appear consistent with all applicable requirements of the Code.

**(3) *Changed conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing**

**regulations, and whether such changes support or work against the proposed rezoning.**

The proposed amendment is being proposed due to changes in land use and development conditions since the effective date of the existing regulations. The flexibility afforded by the easing of the limitation will allow the City to deal with long overdue and necessary changes to the Comprehensive Plan in response to many changed conditions in the community since 1993, the date of the adoption of the Comprehensive Plan.

**(4) *Land use compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

This proposal does not impact land use classifications; therefore, this provision is not applicable.

**(5) *Adequate public facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to chapter 94.**

The proposed ordinance modifications do not directly affect the demand on public facilities and services. Regardless of the number of Comprehensive Plan amendments that are processed during a particular calendar year, Chapter 163 (F.S.) requires that proposed amendments address potential development impacts and the availability of public facilities.

**(6) *Natural environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The proposed ordinance modification does not impact existing natural resource protection regulations.

**(7) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

The proposed ordinance amendment does not adversely affect property values or the general welfare.

**(8) Orderly development.** Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

This modification is not expected to have any new direct impact on existing land use patterns.

**(9) Public interest; enabling act.** Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.

The proposal is not in conflict with the public interest, and is in harmony with the purpose and interest of the land development regulations.

**(10) Other matters.** Other matters which the planning board and the city commission may deem appropriate.

Modifying this section of the Code will provide easier maintenance of the City's Comprehensive Plan, especially when major legislative changes occur which require specific Comprehensive Plan amendments be made.

**Previous City Actions:**

The Planning Board approved the recommendation for adopting the ordinance to allow for the changes to the Land Development Regulations at its April 23, 2012 meeting.

**Options / Advantages / Disadvantages:**

**Option 1.** To adopt the ordinance amending chapter 90 of the Code of Ordinances to allow for the more frequent adoption of amendments to the Comprehensive Plan

**1. Consistency with the City's Comprehensive Plan and Land Development Regulations:**

Adopting the ordinance to allow more frequent change of the Comprehensive plan still requires all criteria for any change be met and the Comprehensive Plan is silent as to the frequency of changes allowed.

**2. Consistency with the City's Strategic Plan, Vision and Mission:**  
The proposal is consistent with the City's Strategic Plan, Vision, and Mission.

**3. Financial Impact:**

The proposal is intended to create a method of reasonable and fair reviews to amend the Comprehensive Plan to benefit citizens and the City when economic conditions change and changes to the

Comprehensive plan can be made to accommodate positive impacts.

**Option 2.** To not invoke the Zoning in Progress Doctrine.

**1. Consistency with the City's Comprehensive Plan and Land Development Regulations:**

Choosing to not adopt the ordinance change will severely limit the City's ability to amend the Plan in response to state law, and will require the City to apply for and receive variances to do so, a cumbersome, expensive and time consuming process with no guarantee or reasonable assurance of success.

**2. Consistency with the City's Strategic Plan, Vision and Mission:**

Choosing to not amend the ordinance will inhibit the ability of the City to amend the Strategic Plan to achieve some goals that are supported by the Comprehensive Plan or can only be achieved with parallel changes to the Comprehensive Plan.

**3. Financial Impact:**

Not approving the ordinance to allow more frequent changes of the Comprehensive Plan will negatively impact citizens whose property use have changed, but has not been legitimized by a Comprehensive Plan change due to the limit on the number of Plan changes and the moratorium on any changes for many years.

**Recommendation:**

The Planning Department recommends the **approval of Option 1**, adoption of the ordinance to remove the twice annually limitation on amending the Comprehensive Plan.

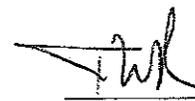
**PLANNING BOARD  
RESOLUTION No. 2012-20**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD  
RECOMMENDING APPROVAL OF AN ORDINANCE OF  
THE CITY OF KEY WEST, FLORIDA, AMENDING  
CHAPTER 90 OF THE CODE OF ORDINANCES  
ENTITLED "ADMINISTRATION" BY AMENDING  
SECTION 90-553 TO LIFT THE TWICE PER YEAR  
RESTRICTION ON COMPREHENSIVE PLAN  
AMENDMENTS; PROVIDING FOR REPEAL OF  
INCONSISTENT PROVISIONS; PROVIDING FOR AN  
EFFECTIVE DATE**

**WHEREAS**, the Planning Department initiated the proposed land development regulation amendment to be consistent with changes made to Chapter 163.3187 of the Florida Statutes (F.S.); and

**WHEREAS**, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with certain procedures and criteria; and

**WHEREAS**, pursuant to Section 90-522, the Planning Board held a noticed public hearing on April 23, 2012, where based on the consideration of recommendations by the City Planner, City Attorney, Building Official, and other information, the Planning Board recommended approval of the proposed amendments; and

  
\_\_\_\_\_  
Vice-Chairman  
  
\_\_\_\_\_  
Planning Director

**WHEREAS**, in accordance with the requirements in Section 90-522, the Planning Board reviewed the proposed changes in the Land Development Regulations; and

**WHEREAS**, the Planning Board considered the proposed amendment with the Comprehensive Plan, requirements of the Code of Ordinances, how land use and development conditions have changed since the effective date of the existing regulations, land use compatibility, availability of adequate public facilities, impacts on the natural environment, economic effects, the promotion of orderly development, whether the proposed amendment is in the public interest, as well as other matters; and

**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 AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY LIFTING THE TWICE PER YEAR RESTRICTION ON COMPREHENSIVE PLAN AMENDMENTS is hereby recommended for approval; a copy of the recommended modifications to the Code is attached.

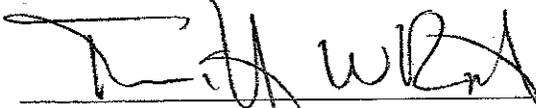
**Section 3.** This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

  
\_\_\_\_\_  
Vice-Chairman

  
\_\_\_\_\_  
Planning Director

Read and passed on first reading at a special meeting held this 23rd day of April 2012.

Authenticated by the Vice-Chairman of the Planning Board and the Planning Director.



Timothy W. Root, Vice-Chairman  
Key West Planning Board

Date

Attest:



Donald Craig, AICP  
Planning Director

4.25.12

Date

Filed with the Clerk:



Cheryl Smith, City Clerk

4-26-12

Date



Vice-Chairman



Planning Director

**Draft  
Ordinance**

*Handwritten initials*  
OC

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,  
AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES  
ENTITLED "ADMINISTRATION" BY AMENDING SECTION  
90-553 TO LIFT THE TWICE PER YEAR RESTRICTION  
ON COMPREHENSIVE PLAN AMENDMENTS; PROVIDING  
FOR REPEAL OF INCONSISTENT PROVISIONS;  
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with certain procedures and criteria;

WHEREAS, pursuant to Section 90-522, the Planning Board held a noticed public hearing on \_\_\_\_\_, where based on the consideration of recommendations of the City Planner, City Attorney, Building Official and other information recommended approval of the proposed amendments with modifications; and

WHEREAS, the City Commission held a noticed public hearing on \_\_\_\_\_ and a second public hearing on \_\_\_\_\_ and in its deliberations considered the criteria identified in Section 90-521 of the Code of Ordinances; and

WHEREAS, the City determined that the proposed amendments are:

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\*(Coding: Added language is underlined; deleted language is struck through.)

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consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are 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 are in the public interest.

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

Section 1: That Chapter 90, Article VI. Amendments, of the Code of Ordinances is hereby amended as follows\*:

**Sec. 90-553 Initiation.**

Pursuant to this division, site-specific comprehensive plan amendments may be proposed by the city commission, the planning board, the city manager or the owner of real property within the city affected by the proposed amendment or the agent of such owner. In addition to site-specific amendments, the city commission, the planning board or city manager may initiate general amendments to the comprehensive plan. ~~Comprehensive plan amendments shall only~~

\*(Coding: Added language is underlined; deleted language is struck through.)



~~occur two times each calendar year. The schedule for such amendments shall be established by resolution of the city commission.~~

Section 2: 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 3: 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 4: 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 State Land Planning Agency pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

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AC

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Authenticated by the presiding officer and Clerk of the  
Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Filed with the Clerk \_\_\_\_\_, 2012.

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

\*(Coding: Added language is underlined; deleted language is  
~~struck through.~~)

*FW*  
*OC*



**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**

**To:** Chairman and Planning Board Members

**From:** Donald Leland Craig, AICP, Planning Director

**Meeting Date:** April 23, 2012

**Agenda Item:** Chapter 90 Administration Ordinance Amendment – Consideration of an ordinance of the City of Key West, Florida, amending Chapter 90 of the Code of Ordinances entitled “Administration” by amending Section 90-553 to lift the twice per year restriction on Comprehensive Plan amendments; providing for repeal of inconsistent provisions; providing for an effective date.

**Background:** On June 2, 2011, House Bill 7207 was signed into law; significantly amending Chapter 163 of the Florida Statutes (F.S.). One notable change was the deletion of the twice per year limit on plan amendment frequency (line 5931 of House Bill 7207). Section 90-553 of the City of Key West Code of Ordinances provides that “Comprehensive plan amendments shall only occur two times each calendar year. The schedule for such amendments shall be established by resolution of the City Commission.”

Though Section 90-553 of the City Code is still consistent with the statutory requirements, it is now a more restrictive requirement, and as such, the City’s schedule for comprehensive plan amendments has been maximized for the remainder of the 2012 calendar year. The Planning Department has been processing amendments to comply with other aspects of House Bill 7207, including an amendment to provide for the coordination strategies and compatibility of lands adjacent to or proximate to military installations (as required by Chapter 163.3175 and 163.3177). Also, the Planning Department has been working on a Future Land Use Map and Future Land Use designation for the property known as the Peary Court Housing Complex (RE# 00006730-000000), due to the impending land sale of the property by the military to a non-military entity. The Planning Department has also been working on preparing the Evaluation and Appraisal Report (EAR) amendments to the Comprehensive Plan, and is required to prepare and transmit the subject amendments by December 29, 2012. The three Comprehensive Planning initiatives identified are necessary amendments maintaining compliance with changes in state legislation, as well as unforeseen circumstances requiring City action. As such, it is imperative to amend Section 90-553 of the City Code, or otherwise request a variance to the provision at the time of consideration the proposed EAR amendments.

**Review Criteria:**

Section 90-522 of the Code of Ordinances outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

**Sec. 90-522. Planning Board review of proposed changes in Land Development Regulations.**

**(a) The Planning Board, regardless of the source of the proposed change in the Land Development Regulations, shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change of zoning to the City Commission for official action. In its deliberations the Planning Board shall consider the criteria stated in section 90-521.**

**Sec. 90-521. Criteria for approving amendments to official zoning map.**

In evaluating proposed changes to the official zoning map, the city shall consider the following criteria:

**(1) *Consistency with plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure, minimum levels of service standards and the concurrency management program.**

The proposed change does not impact the official zoning map or underlying future land use map designations.

**(2) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposed modifications appear consistent with all applicable requirements of the Code.

**(3) *Changed conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.**

The proposed amendment is being proposed due to changes in land use and development conditions since the effective date of the existing regulations.

**(4) *Land use compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

This proposal does not impact land use classifications; therefore, this provision is not applicable.

**(5) Adequate public facilities.** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to chapter 94.

The proposed ordinance modifications do not directly affect the demand on public facilities and services. Regardless of the number of Comprehensive Plan amendments that are processed during a particular calendar year, Chapter 163 (F.S.) requires that proposed amendments address potential development impacts and the availability of public facilities.

**(6) Natural environment.** Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The proposed ordinance modification does not impact existing natural resource protection regulations.

**(7) Economic effects.** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

The proposed ordinance amendment does not adversely affect property values or the general welfare.

**(8) Orderly development.** Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

This modification is not expected to have any new direct impact on existing land use patterns.

**(9) Public interest; enabling act.** Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.

The proposal is not in conflict with the public interest, and is in harmony with the purpose and interest of the land development regulations.

**(10) *Other matters.* Other matters which the planning board and the city commission may deem appropriate.**

Modifying this section of the Code will provide easier maintenance of the City's Comprehensive Plan, especially when major legislative changes occur which require specific Comprehensive Plan amendments be made.

**PROCESS**

After the Planning Board recommends changes to the City Commission, the ordinance will be required to be heard at two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the state land planning agency, which will have 60 days to issue an order of consistency determination.

**RECOMMENDATION**

The Planning Department recommends consideration and approval of the ordinance amendment.