



# Application For Beneficial Use Determination

City of Key West, Florida • Planning Department

3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

**Application Fee: \$500.00**

Ordinance 13-19, Sec 108-999, Effective March 1, 2014

Please complete this application and attach all required documents. This will help staff process your request quickly and obtain necessary information without delay. If you have any questions, please call 305-809-3720.

## PROPERTY DESCRIPTION:

Site Address: \_\_\_\_\_

Real Estate (RE) #: \_\_\_\_\_ Alternate Key: \_\_\_\_\_

Zoning District: \_\_\_\_\_ Total Land Area (sq ft): \_\_\_\_\_

Property located within the Historic District?  Yes  No

**APPLICANT:**  Owner  Authorized Representative

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home/Mobile Phone: \_\_\_\_\_ Office: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## PROPERTY OWNER: (if different than above)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home/Mobile Phone: \_\_\_\_\_ Office: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

(1) Was the parcel of real property, a lot or parcel of record (recognized by the Monroe County Property Appraiser as a separate lot or parcel) as of the date of adoption of the Comprehensive Plan (August 10, 1993)? Please submit documentation to substantiate.  Yes  No

(2) If the lot does not meet the minimum lot size requirements required in the zoning district, please indicate if it is under the same ownership as adjoining properties?  Yes  No

(3) Were there any dwelling units located on any part of the property on or around 2010?  Yes  No  
If the answer is yes, your property may be eligible for a Lawful Unit Determination, which may result in the right to construct a residential unit without a determination of beneficial use.

(4) Please describe how the property has been used since August 10, 1993:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Application checklist:**

- Application fee. Please make checks payable to "City of Key West."
- Notarized verification form signed by property owner or the authorized representative.
- Notarized authorization form signed by property owner, if applicant is not the owner.
- Copy of recorded warranty deed
- Survey

Section 108-999 of the Land Development Regulations provides the procedures for ensuring beneficial use of private property as follows:

- (a) It is the policy of the city that neither provisions of the comprehensive plan nor the land development regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which is a lot or parcel of record as of the date of adoption of the comprehensive plan (**August 10, 1993**) or lots of record which have been reconfigured such that the number of minimum sized lots are not increased. An owner of real property may apply for relief from the literal application of applicable land use regulations or of this plan when such application would have the effect of denying all economically reasonable or viable use of that property unless such deprivation is known to be necessary to prevent a nuisance under state law or in the exercise of the city's police power to protect the health, safety, and welfare of its citizens. All reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by land use case law.
- (b) The relief to which an owner shall be entitled may be provided through the use of one or a combination of the following:
  - (1) Granting of a permit for development which shall be deducted from the Pre-existing Reserve Units/Beneficial Use pool reserved to address outstanding beneficial use claims. All units that are recaptured by the City through a Waiver and Release of Building Permit Allocation for residential units lawfully existing prior to May 2, 2013 shall be recorded and dedicated for beneficial use only. Beneficial Use allocations shall be valid until such time that the owner chooses to obtain building permits, so long that no changes are made to the configuration or size of the lot or parcel that affect the conditions in which the Beneficial Use allocation is granted as described in subsection (a) above.
  - (2) Granting the use of transfer of development rights (TDRs) consistent with the comprehensive plan.
  - (3) Purchasing by the city of all or a portion of the lots or parcels upon which all beneficial use is prohibited.
  - (4) Such other relief as the city may deem appropriate and adequate.

The relief granted shall be the minimum necessary to avoid a taking of the property under existing state and federal law.

- (c) Development approved pursuant to a beneficial use determination shall be consistent with all other objectives and policies of the comprehensive plan and land development regulations unless specifically exempted from such requirements in the final beneficial use determination.

The property may be configured, arranged, or platted to the extent which the Code allows as follows:

Legal nonconforming lots are defined in Chapter 86 of the Land Development Regulations as meaning a lot, area, dimensions, or location of which that was lawful prior to the adoption, revision, or amendment of the Land Development Regulations, but which fails because of such adoption, revision, or amendment to conform to the present Land Development Regulations. Pursuant to Section 122-31, noncomplying lots or building sites of record are subject to the following regulations:

- (1) In any district in which single-family dwellings are allowed, a single-family dwelling and customary accessory buildings may be erected on any legal nonconforming single lot that is in existence on January 1, 1994, and that is in different ownership from the adjoining property. This subsection shall apply even though such lot fails to meet the requirements for area, depth or width, provided that all other zoning requirements shall apply. (Note: the critical date for beneficial use allocations is actually August 10, 1993, per 108-999 of the Land Development Regulations).
  
- (2) If two or more adjoining lots or portions of lots in single ownership on January 1, 1994, do not meet the requirements for building site width, depth and area as established by this article, the land involved shall be considered to be an undivided parcel, and no portion of the parcel shall be used or sold that does not meet building site width, depth and area requirements, nor shall any division of the parcel be made that leaves remaining any lot with substandard width, depth, area, parking, open space or stormwater retention. Notwithstanding anything to the contrary in this subsection, two or more adjoining lots or building sites shall not be considered to be an undivided parcel, and may be sold or used for single-family dwellings, if allowed by applicable district regulations, so long as each lot or building site is at least 75 percent of the minimum lot size of the applicable district regulations and is not otherwise required to provide required parking for the adjacent parcel.