

ORDINANCE NO. 2025-505

AN ORDINANCE OF THE CITY OF KEY COLONY BEACH, FLORIDA, AMENDING ARTICLE XIII DEVELOPMENT REVIEW COMMITTEES SECTION 101-185 PLANNING AND ZONING COMMITTEE, SECTION 101-170 APPEALS FROM ADMINISTRATIVE HEARINGS, SECTION 101-171 VARIANCES, AND SECTION 101-172 AMENDMENT TO THIS CODE; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Committee serves as an advisory body to the City Commission, providing recommendations on community development, land use, and planning matters that help preserve and enhance the character and quality of life in the City; and

WHEREAS, the City Commission of Key Colony Beach has determined that it is necessary to amend Article XIII, “Development Review Committees,” specifically Section 101-185, Section 101-170, Section 101-171, and Section 101-172 of the City’s Land Development Regulations, to modify the residency requirements and meeting procedures of the Planning and Zoning Committee; and

WHEREAS, the City of Key Colony Beach recognizes that regular review and refinement of committee structures, duties, and procedures help eliminate redundancies and better align advisory work with the City’s strategic planning goals; and

WHEREAS, the City Commission has reviewed the proposed ordinance and determined that its adoption is in the best interests of the public health, safety, and welfare of the residents of Key Colony Beach, Florida.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KEY COLONY BEACH, FLORIDA, AS FOLLOWS:

Section 1: Recitals

The above recitals are true and correct.

Section 2: Effective Date

This Ordinance shall become effective upon approval by the City Commission.

Section 3: Amendment

Section 101-185 of Article XIII, “Development Review Committees” of the Land Development Regulations of the City of Key Colony Beach, Florida shall be amended to read as follows:

~~Strikethrough~~ = deletion

Bold underline = addition

Sec. 101-185. - Planning and zoning committee.

- (1) *Composition.* The city planning and zoning committee shall consist of five (5) persons appointed by the city commission no later than the second regular meeting of the city commission in the month of April. Additionally, two (2) alternate members may be appointed by the city commission, who shall attend meetings. Alternate members shall be designated either first or second alternate member and shall exercise voting priority accordingly. Members and alternate members shall serve their terms or until their successors are appointed, whichever comes last.
- (2) *Qualifications.* Each member or alternate must be a resident of the city. Alternate members may act in the temporary absence or disability of any regular member. No member or alternate member of the committee shall be an elected official or an employee of the city.
- (3) *Attendance and vacancies.* The city commission can remove any member of the planning and zoning committee for cause after written notice and public hearing. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the board shall declare the member's office vacant, and the city commission shall promptly fill such vacancy. Any vacancy occurring during the unexpired term of office of any member or alternate shall be filled by the city commission for the remainder of the term. The existing planning and zoning committee shall continue in office according to the terms of their original appointments.
- (4) *Terms.* Members of the planning and zoning committee shall be appointed for staggered terms of two (2) years. Three (3) members shall and one (1) alternate may be appointed in the odd number years and two (2) members shall and one (1) alternate may be appointed in the even years. Committee member terms shall end no later than the second regular meeting of the city commission in the month of April. At the time of the initial appointments of the alternates, one (1) shall be for a one (1) year term and one (1) shall be for a two (2) year term.
- (5) *Officers.* At the planning and zoning committee's first meeting in May, it will elect a chair, a vice-chair and a secretary from among its regular members, for a term of one (1) year or until their replacements are elected.
- (6) *Meetings.* The planning and zoning committee shall hold a regular meeting once every month unless there is no business to conduct. It will meet at such other times as the chair or city commission may direct. Minutes of all meetings shall be taken and copies shall be filed immediately with the city clerk. **If the Board is unable to establish a quorum at its regularly scheduled meeting, or within seven (7) days afterward, all matters that were to be considered shall be submitted to the Commission by the City Clerk to be considered at the next regular City Commission meeting, without a recommendation from the Board. The City will conduct any required public hearings or quasi-judicial proceedings where required.**
- (7) *Responsibilities.* The city planning and zoning committee will have the following duties and powers:
 - (a) *Records:* It shall follow the administrative rules for transaction of its business. It shall keep records of its findings and determinations and copies of all its recommendations for amending ordinances and handling appeal cases and requested variances. All meetings shall be public.

- (b) Budget: Annually, at the time of preparation of the city budget, it shall present to the city commission its proposed annual income and expenses. Approved budgeted expenses may be spent without additional city commission approval. Any expenditure to be made, not included in the budget, shall be submitted in advance to the city commission for its approval.
 - (c) Amendments to this code: It will review all proposed amendments to this chapter in accordance with section 101-172 and after public hearing, make recommendations to the city commission.
 - (d) Other development permits: It will review subdivision plats, site plans and related impact reports and furnish the city commission a detailed written report with its recommendation on the development permit application.
 - (e) Comprehensive plan: See (8) below.
 - (f) Variances and appeals: It shall review and make recommendations to the city commission on variances to this code (in accordance with section 101-171) and appeals of city development staff decisions (in accordance with section 101-170).
 - (g) Other: The planning and zoning committee may have such other duties and powers as may be assigned to it from time to time by the city commission.
 - (h) Code enforcement: It will not be the responsibility of the planning and zoning committee to enforce the regulations of this code.
- (8) *Local planning agency.*
- (a) The city commission hereby designates the planning and zoning committee as the local planning agency to be responsible for the development of the local comprehensive plan as required by F.S. Ch. 163.
 - (b) The committee shall conform to the statute, its own citizen participation plan and the 1990 Comprehensive Plan Appendix B for purposes of monitoring and amending the plan.

Section 101-170 of Article XIII, "Development Review Committees" of the Land Development Regulations of the City of Key Colony Beach, Florida shall be amended to read as follows:

Sec. 101-170. - Appeals from administrative rulings.

- (1) *Appeal initiation.* Any person aggrieved by a decision of the building official or other city official who enforces this chapter may appeal in writing to the planning and zoning committee. Any such appeal must be filed in writing with the city clerk together with the fee established in the fee schedule. Any such appeal must be filed within thirty (30) days after the act or decision upon which the appeal is made and must specify the grounds thereof.
- (2) *Planning and zoning committee procedure.*
 - (a) Upon receipt of a written appeal, the city clerk will deliver the appeal to the planning and zoning committee.
 - (b) The building official or other city official shall transmit to the planning and zoning committee all records upon which the action or decision that was the basis for the appeal.
 - (c) An appeal from an administrative ruling shall stay all proceedings and all work on the premises involved unless such stay shall be deemed to imperil life or property.

In such cases, proceedings or work shall not be stayed except by a stop order which may be granted by the city commission or by the circuit court if the same shall have been refused by the city commission.

- (d) The planning and zoning committee shall investigate the circumstances for the appeal and make a recommendation to the city commission prior to the commission's public hearing. The letter shall include the facts leading up to the recommendation and whether or not the ruling given the applicant by the building inspector or other city official was given in error.
 - (e) **If the Board is unable to establish a quorum at its regularly scheduled meeting, or within seven (7) days afterward, all matters that were to be considered shall be submitted to the Commission by the City Clerk to be considered at the next regular City Commission meeting, without a recommendation from the Board. The City will conduct any required public hearings or quasi-judicial proceedings where required.**
- (3) *City commission procedure.*
- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in [section 101-173](#).
 - (b) After the public hearing, the city commission may reverse or affirm wholly or partly or may modify the determination made by the administrative official in enforcing this Code.
 - (c) The concurring vote of a majority of all members of the city commission shall be necessary to reverse any decision of any administrative official or to decide in favor of the applicant.

Section 101-171 of Article XIII, "Development Review Committees" of the Land Development Regulations of the City of Key Colony Beach, Florida shall be amended to read as follows:

Sec. 101-171. - Variances.

- (1) *Initiation.* Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.
- (2) *Planning and zoning committee procedure.*
 - (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
 - (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.

- (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.
 - (d) **If the Board is unable to establish a quorum at its regularly scheduled meeting, or within seven (7) days afterward, all matters that were to be considered shall be submitted to the Commission by the City Clerk to be considered at the next regular City Commission meeting, without a recommendation from the Board. The City will conduct any required public hearings or quasi-judicial proceedings where required.**
- (3) *City commission procedure.*
- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in [section 101-173](#).
 - (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
 - (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
 - (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.
- (4) *Effective period.*
- A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.
- (5) *Standards for granting variances.*
- (a) *Specific criteria:*
 - (1) The applicant shall demonstrate a showing of good and sufficient cause;
 - (2) Failure to grant the variance would result in unnecessary hardship to the applicant;
 - (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;
 - (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;

- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.
- (b) *Recommendations to the city commission.*
 - (1) If all five (5) specific criteria are met, then the planning and zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission. If the planning and zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths ($\frac{4}{5}$) of the city commission.
 - (2) *Conditions.* The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
 - (3) *Use variance.* Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

Section 101-172 of Article XIII, "Development Review Committees" of the Land Development Regulations of the City of Key Colony Beach, Florida shall be amended to read as follows:

Sec. 101-172. - Amendment to this code.

- (1) Initiation. An amendment to this chapter may be suggested by the city commission, the planning and zoning committee or any property owner directly affected by the provisions or map change in question.
In the latter case the petitioner shall submit a request in writing to the city clerk who shall transmit the same to the chairman of the planning and zoning committee. The request shall contain all pertinent information which may be required by the planning and zoning committee for proper consideration of the matter and shall be accompanied by the necessary amendment fee.
- (2) Planning and zoning committee procedure.
 - (a) All proposed code amendments shall be submitted to the planning and zoning committee for study and recommendations.
 - (b) The planning and zoning committee shall set a date, time and place of their public hearing. The committee shall provide public notice appropriate to the nature of the amendment.
 - (c) The planning and zoning committee at the completion of the public hearing shall make their recommendations to the city commission in writing. They may recommend approval or disapproval or make changes in the amendment as appear to be appropriate in furtherance of this chapter. The planning and zoning committee may

vote by majority to make a specific finding that any code amendment approved pursuant to this section be subject to expedited review by the City Commission.

- (d) Absent a recommendation of expedited review by the planning and zoning committee, a minimum of ten (10) days shall elapse before the City Commission may consider the proposed ordinance for action.
- (e) **If the Board is unable to establish a quorum at its regularly scheduled meeting, or within seven (7) days afterward, all matters that were to be considered shall be submitted to the Commission by the City Clerk to be considered at the next regular City Commission meeting, without a recommendation from the Board. The City will conduct any required public hearings or quasi-judicial proceedings where required.**

(3) City commission procedure.

- (a) Unless recommended for expedited review, the city commission shall not consider any code amendment proposed for approval or disapproval by the planning and zoning committee that has not satisfied the minimum ten (10) day wait period in accordance with Sec. 101-172(2)(d) set forth above.
- (b) After receipt of the planning and zoning committee recommendation, the city commission shall give notice in the newspaper of their public hearing as provided for in Sec. 101-173. However, if the amending ordinance involves a zoning map change, or substantially changes permitted use categories in a zoning district, the city commission shall give public notice as provided in state statute; see Sec. 101-173(2).
- (c) After the public hearing the city commission may approve or may make changes in the proposed amending ordinance. The first of two (2) readings of the amending ordinance shall be held at a regular or special meeting. The ordinance may be read by title only if copies are available for public inspection.
- (d) The enactment of the proposed amending ordinance must be noticed once, at least ten (10) days prior to its second reading and adoption, in a newspaper of general circulation in Key Colony Beach. The notice shall state the date, time and place of the meeting, the title of the proposed ordinance, the place in Key Colony Beach where the proposed ordinance may be inspected by the public, and the notice shall state that interested parties may appear at the meeting and be heard with respect to the ordinance.
- (e) At a subsequent regular or special meeting it shall be read for a second time, provided that the second reading, if the ordinance is not amended, may be read by title only unless full reading is requested by two (2) members of the city commission. The ordinance may be adopted after the second reading.
- (f) If a change in the ordinance by the city commission is adverse to the recommendation of the planning and zoning committee, such change shall not become effective except by the affirmative vote of a majority of the city commission membership.
- (g) The amending ordinance becomes effective ten (10) days after adoption.
- (h) The amending ordinance shall be promulgated without unnecessary delay by posting at the city hall and at one (1) other public place within the city for a period of not less than four (4) weeks.

- (i) Each amending ordinance, shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the presiding officer and the city clerk.
 - (j) The city commission may, by an affirmative vote of four (4) members at a regular or special meeting, enact an emergency ordinance without complying with requirements of the above paragraphs (b) through (g) and without referring the amendment to the planning and zoning committee. However, no emergency ordinance shall be enacted which rezones private real property or changes the number of units per net acre of density.
- (4) Guidelines for amendments to this code. At public hearings held to consider requests for amendments to this chapter, the planning and zoning committee and the city commission shall consider, but shall not necessarily be limited to, the following factors:
- (a) When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and surrounding properties.
 - (b) When pertaining to rezoning of land, the amount of undeveloped land in the general area having the same classification as that requested.
 - (c) The extent to which property values would diminish by such land development code regulations.
 - (d) The character of the district and its peculiar suitability for particular uses.
 - (e) The use of nearby property.
 - (f) The gain to the public compared to the hardship imposed upon the individual property owner.
 - (g) Subdivision restrictions or deed restrictions that apply to the property under consideration.
 - (h) The relationship of the proposed amendment to the purposes of the city comprehensive plan with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the city comprehensive plan.

Section 4: Severability and Conflict

If any portion of this ordinance is declared by a Court of competent jurisdiction to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining portions of this ordinance. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: Inclusion in the Code of Ordinances

The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of the City of Key Colony Beach, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code:

Section 6: Effective Date

This ordinance shall become effective upon its adoption by the City of Key Colony Beach Commission.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]
FIRST READING by the City of Key Colony Beach City Commission this 21st day of August, 2025.

Mayor Freddie Foster	NO _____	YES ____x____
Vice-Mayor Doug Colonell	NO _____	YES ____x____
Commissioner Tom Harding	NO _____	YES ____x____
Commissioner Tom DiFransico	NO _____	YES ____x____
Commissioner Kirk Diehl	NO _____	YES ____x____

SECOND READING AND DULY ADOPTED by the City of Key Colony Beach City Commission on this 18th day of September, 2025.

Mayor Freddie Foster	NO _____	YES _____
Vice-Mayor Doug Colonell	NO _____	YES _____
Commissioner Tom Harding	NO _____	YES _____
Commissioner Tom DiFransico	NO _____	YES _____
Commissioner Kirk Diehl	NO _____	YES _____

DULY PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF KEY COLONY BEACH, FLORIDA, this 18th day of September, 2025.

Freddie Foster, Mayor

Silvia Roussin, City Clerk

Approved as to form and legal sufficiency:

Dirk M. Smits, Esq. B.C.S., City Attorney