



Proposed Amendment to Land  
Development Regulations to Incentivize  
Development of Affordable Housing and  
Help Projects Receive Public Funding

September 19, 2024

# Application Purpose

- Submitted in response to Planning Department's proposed amendment that increased inclusionary housing requirement from 30% to 45%, which was likely not legally defensible and likely not to lead to significant development of affordable housing. This proposal was postponed until November.
- We found that in other jurisdictions, incentivizing development of affordable housing was much more effective than requiring an affordable housing component to other developments.
- Opportunity to align City LDRs with HUD and Florida Housing regulations.

# Incentivizing the Development of Affordable Housing

- State legislature adopted the Live Local Act (SB 102) to address the housing affordability issue throughout the State.
- The Live Local Act:
  - 1) provides funding and tax credits to support affordable housing developments;
  - 2) provides density bonuses and other land use exemptions to streamline the development of affordable housing; and
  - 3) provides property and sales tax incentives for affordable housing developments.
- The LDR amendment proposed acknowledges and implements portions of the Live Local Act in City Code. There are projects that can benefit from these amendments now.

# Incentivizing the Development of Affordable Housing

## Secs. 122-1474. Live Local Act Implementation.

Notwithstanding any other chapter of the Land Development Regulations and in conformity with the State of Florida's Live Local Act, any existing or new developments or redevelopments that provide a minimum of 65% of the total density and intensity as affordable housing shall be entitled to the following applicable density, height, setbacks, parking, landscaping and other development standard requirements for development or redevelopment within the City:

- (1) Density. Density for affordable housing in any multifamily district that permits more than two units per acre or lot shall be forty (40) units per acre.
- (2) Height. Height shall not include mechanical equipment including elevator shafts or roof lines or parapets utilized to hide mechanical equipment and elevator shafts.
- (3) Setbacks. All setbacks may be reduced to the greatest extent practicable to develop the maximum number of dwelling units.
- (4) Parking.
  - a. In the Historic District, parking shall be one (1) parking space per two (2) dwelling units and two (2) bicycle racks per dwelling unit.
  - b. Outside the Historic District, parking shall be one (1) parking space per one (1) dwelling unit and two bicycle racks per dwelling unit.
- (5) Landscaping.
  - a. Landscaping requirements shall be waived to the greatest extent practicable to develop the maximum number of dwelling units.
- (6) Development standards not identified herein shall not require a hardship variance but may be waived or altered by the planning board to the greatest extent practicable.

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*\* Density bonus would not apply to Single-Family, Public Service, or Conservation zoning districts.*

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2. **Height.** Height shall not include mechanical equipment including elevator shafts or roof lines or parapets utilized to hide mechanical equipment and elevator shafts.

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3. **Setbacks.** All setbacks may be reduced to the greatest extent practicable to develop the maximum number of dwelling units.

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  - a. Landscaping requirements shall be waived to the greatest extent practicable to develop the maximum number of dwelling units.

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6. Development standards not identified herein shall not require a hardship variance but may be waived or altered by the planning board to the greatest extent practicable.

# Aligning with State and Federal Regulations

- A large portion of the successful affordable housing projects in the City have been funded in part by public programs that must follow State and Federal regulations.
- Our current LDRs have inconsistencies with the State and Federal regulations.
- In past projects, the Declaration of Affordable Restrictions and approvals have needed to be amended to follow State and Federal Regulations instead of City code.
- The proposed amendment aims to align City code definitions and regulations with the State and Federal Regulations regarding affordable housing development to provide clarity and help facilitate tax credit financing, bonds, etc. supporting developments.

# Aligning with State and Federal Regulations

- Aligning City code definition of “Affordable”, “Median annual adjusted gross income”, and affordable housing income levels with Florida Housing Finance Corp./HUD
  - (1) “Affordable” means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (2), subsection (3), subsection (4), subsection (5), subsection (6), subsection (7).
  - (2) “Extremely-low-income persons” means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income within Monroe County.
  - (3) “Low-income persons” means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households Monroe county.

Continuing (4) – (7)

# Adding a Unit (BPAS) Transfer Process

- All other Florida Keys municipalities have a codified process in which one property can assign to another property a building right (BPAS). In Key West, only transient units can currently be transferred to another property.
- Since the City is unsure when and where their next BPAS allocations will come from, it should allow BPAS units that are locked on properties in the City to be transferred to properties that can utilize the units.
- Would add efficiency and put less pressure on yearly BPAS allocation cycle.
- No transfers would be allowed that would make the receiver site go above maximum density.

# Nonresidential Affordable Housing Requirement and Postponement

- Nonresidential inclusionary housing requirement proposed very similar to Planning Department's proposal.
- Agree to postponement but would like the specifics of affordable housing incentive portion of the amendment to be discussed at October Planning Board meeting.