

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

**AN ORDINANCE TO THE CITY COMMISSION AMENDING CHAPTER 108 ENTITLED “PLANNING AND ZONING”, ARTICLE X ENTITLED “BUILDING PERMIT ALLOCATION SYSTEM”, DIVISION 1 ENTITLED “GENERALLY”, SECTION 108-987 ENTITLED “PURPOSE AND INTENT”; AND DIVISION 2 ENTITLED “BUILDING PERMIT ALLOCATION SYSTEM”, SECTION 108-994 ENTITLED “ESTABLISHED”, SECTION 108-995 ENTITLED “REPORTING REQUIRMENTS AND RESIDENTIAL ALLOCATION SCHEDULE”; SECTION 108-997 ENTITLED “PERIOD OF ALLOCATION AND RANKING /REVIEW OF APPLICATIONS” AND SECTION 108-998 ENTITLED “COMPACT INFILL DEVELOPMENT AND MIXED USE OF PRIVATE PROPERTY” OF THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AND EFFECTIVE DATE.**

**WHEREAS**, a revision to Sections 108-987, 108-994, 108-995, 108-997, and 108-998 pertaining to the Building Permit Allocation System (BPAS), and presented to the Planning Board for approval at its regular meeting held on February 15, 2018; and

**WHEREAS**, the City Commission finds that it is in the public interest to amend Sections 108-987, 108-994, 108-995, 108-997, and 108-998;

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of

## **Key West, Florida:**

**Section 1.** That the proposed amendment to Section 108-987 is as follows\*:

### **DIVISION 1. GENERALLY**

#### **Sec. 108-987. - Purpose and intent.**

The intent of the building permit allocation system is to implement the city's comprehensive plan by updating the city's residential building permit allocation system limiting annual permanent and transient residential development in the city in order to:

- (1) Reduce or maintain hurricane evacuation clearance times measured by the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys.
  - (2) Limit the amount of residential development commensurate with the city's ability to maintain a reasonable and safe hurricane evacuation clearance time of no more than 24 hours for permanent residents.
  - (3) Regulate the amount of permanent and transient residential building permits in order to maintain and improve public facility service levels.
  - (4) Allocate the limited number of permanent ~~and transient~~ residential units available under this article, based upon the goals, objectives and policies set forth in the city comprehensive plan.
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\*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

- (5) Limit units allocated from the BPAS by using those units which are identified and derive from the following sources: City of Key West Comprehensive Plan Policy 1.1.1.1; units recovered by the city which were previously allocated and unused and subsequently returned to the city; units recaptured by the city which are derived from decreases in existing residential density and changes in residential uses and subsequently returned to the city through the waiver and release of building permit allocation process and any pre-existing reserve units.

**Section 2.** That the proposed amendment to Section 108-994 is as follows\*:

## **DIVISION 2. - BUILDING PERMIT ALLOCATION SYSTEM**

### **Sec. 108-994. - Established.**

The city establishes a building permit allocation system in order to limit the number of permits issued for permanent and transient units by structure type and affordability level (as shown on Table 1.0 below) to those available through the following means:

- (1) Units generating from policy 1-1.1.1 of the comprehensive plan that have not been allocated.

- (2) Legal mechanisms including memorandums of agreement between the Florida Department of Economic Opportunity and the City of Key West, development agreements, settlement agreements and consent final judgments.
- (3) Units as recovered by the city which were either previously allocated and unused or which derive from units which are determined not be affected by this article per section 108-991.

Table 1.0	
Residential Structure Type	Equivalent Single-Family Unit Factor (1)
Single-family	1.00 <sup>(a)</sup>
Accessory apt./SRO	0.78 <sup>(b)</sup>
Multifamily	1.00 <sup>(c)</sup>
Transient unit	0.86 <sup>(d)</sup>
Nursing home, rest home, assisted living facility and convalescent home	0.10 <sup>(e)</sup>

- (1) Pursuant to comprehensive plan policy 1-1.16.3, the equivalent single-family unit factors are based on the ratio of the average number of vehicles per unit based on the 2010 U.S. Census for the respective residential structure types divided by the vehicles per single-family units (i.e., 1.28 vehicles per unit). The computations are as follows:

- (a) Single-family:  $1.28/1.28 = 1.00$
- (b) Accessory unit, single room occupancy (SRO):  $1.00/1.28 = 0.78$
- (c) Multifamily:  $1.28/1.28 = 1.00$
- (d) Transient unit:  $1.10/1.28 = 0.86$  based on the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys (1.10 vehicles per transient unit in Monroe County).
- (e) Nursing home, rest home, assisted living facility and convalescent home:  $1.0/10 = 0.10$  based on provisions set forth in chapter [section] 86-9, definition of terms.

**Section 3.** That the proposed amendment to Sections 108-995 is as follows\*:

~~Sec. 108-995. — Reporting requirements and residential allocation schedule.~~

**Section 4.** That the proposed amendment to Section 108-995 is as follows:

**Sec. 108-995. - Reporting requirements and residential allocation schedule.**

The City of Key West building permit allocation system shall limit the number of permits issued for new permanent ~~and transient~~ development, to 910 units during the period from July 2013 to July 2023, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The annual allocation will ~~be~~ not exceed ninety-one (91) single-family units or ~~an equivalent combination of residential and transient types of units~~ based

on the equivalency factors established in policy ~~1-1.15.3~~ 1-1.16.3 of the comprehensive plan. The annual allocation limitation shall not apply to affordable housing allocations. No transient allocations will be made subsequent to the closure of the 2017-2018 allocation period.

In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013—July 2016) 60 percent of the units allocated shall be affordable. Between years four (4) and ten (10) (2016—2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four (4) and five (5), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. Between years six (6) and ten (10) 100 percent of the units shall be permanent. During year one (1) (July 2013—2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, being transferred from military to private sector housing, and shall meet the prerequisite standards for obtaining BPAS awards. Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

Table 2.0									
July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023
48 affordable units to be allocated for Peary Court developme nt. Minimum of 7 affordable units. Maximum of 36 market rate units.	Minimu m of 55 affordab le units. Maximu m of 36 market rate units.	Minimu m of 55 affordab le units. Maximu m of 36 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) units may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) units may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) may be transien t.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten (10) may be transien t.

The city planner will provide an annual report to the planning board and the state land planning agency identifying any remaining or unused allocations, and the number of permits by building type by September 1 of each year as stipulated in the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding. The first report will be published in 2014.

**Section 5.** That the proposed amendment to Section 108-997 is as follows\*:

**Sec. 108-997. - Period of allocation and ranking/review of applications.**

- (a) *Application and allocation period.* The annual building permit allocation period will begin ~~in~~ on July 1 of each year ~~– and shall end on the 30<sup>th</sup> of June of the following year.~~
- (b) *Prerequisites.*
  - (1) *Prerequisite major construction/renovation* means the minimum standards for new development, including additions to existing structures, or redevelopment constituting more than 50% of the value of the building, required in order to be eligible to receive an allocation award from the BPAS system as follows:
    - a. All new units shall be constructed in compliance with and obtain a baseline green building certification.
    - b. All new buildings shall be constructed so as to have the first habitable floor 1.5 feet above the required base flood elevation, with the exception of properties located within the historic zoning districts, where the applicant must first demonstrate that such elevation does not interfere with the essential form and integrity of properties in the neighborhood by obtaining a certificate of appropriateness.



e. ~~All new buildings shall be constructed with a rainwater catchment system that will hold a minimum of 1,000 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater.~~

(2) *Prerequisite, minor renovation* means the minimum standards for redevelopment constituting less than 50% of the value of the building, required. In order to be eligible to receive an allocation award from the BPAS system applicants must demonstrate water and energy use 15% below the Florida Building Code using recognized energy and water rating standards.

(c) *Point system.* The city building permit allocation system application review and ranking process shall be administered by staff and shall be based on the point system established in the criteria listed below. The criteria shall apply to both affordable and non-affordable units proposed for construction. However, applicants for affordable unit awards shall compete only for other affordable housing unit allocations, and not for the market rate unit allocations.

(1) The following criteria and point system shall be utilized in the ranking of applications for development of ~~three or more~~ non-transient units as follows:

a. Building more than 1.5' higher than the base flood elevation: 5 points.

b. Exceeding the minimum required percentage of affordable housing: ~~5~~ 30 points.

c. Voluntarily providing affordable housing which exceeds the requirements of section 122-1467 at median income classification: 40 points.

- d. ~~Voluntarily providing affordable housing which exceeds the requirements of section 122-1467 at low income classification: 60 points~~
- e. ~~e.~~ Achieving Green Building Certification Upgrade 1: ~~30~~ 10 points.
- f. ~~f.~~ Achieving Green Building Certification Upgrade 2: ~~40~~ 20 points.
- g. ~~g.~~ Achieving Green Building Certification Upgrade 3: ~~60~~ 30 points.
- h. ~~h.~~ Voluntary contribution to the arts in public places fund or tree fund in the amount of ~~\$5,000.00~~ \$2,500.00 or more: 10 points.
- i. ~~i.~~ ~~Design by a LEED accredited architect: 10 points.~~
- j. ~~j.~~ Providing electrical high voltage sized conduit for future electric car charging station near parking area: 5 points.
- k. ~~k.~~ Using light colored, high reflectivity materials for all non-roof/areas with a solar reflectance index (SRI) of at least 29: ~~40~~ 5 points.
- l. ~~l.~~ Providing ~~additional on-site open space or~~ on-site recreational ~~facilities~~ amenities or exceeding the open space requirements of section 108-346 (b) of article V of chapter 108: 10 points.
- m. ~~m.~~ ~~Designing the buildings with a vegetated roof of at least 50% of the roof area: 15 points.~~

- l. Constructing a rainwater catchment system that will hold a minimum of 1,000 gallons of water or an amount equivalent to 100% of the new roof area in gallons, whichever is greater: 10 points.
  - m. Using light colored, high reflectivity roofing materials with a solar reflectance index (SRI) of at least 29: 5 points.
- (2) ~~The following criteria and point system shall be utilized in the ranking of applications for development of one or two non-transient units as follows:~~
- a. ~~Building more than 1.5' higher than the base flood elevation: 5 points.~~
  - b. ~~Voluntarily providing affordable housing units: 10 points.~~
  - c. ~~Achieving Green Building Certification Upgrade 1: 30 points.~~
  - d. ~~Achieving Green Building Certification Upgrade 2: 40 points.~~
  - e. ~~Achieving Green Building Certification Upgrade 3: 60 points.~~
  - f. ~~Voluntary contributions to the arts in public places fund or tree fund in the amount of \$1,000.00 or more: 10 points.~~
  - g. ~~Design by a LEED accredited architect: 10 points.~~
  - h. ~~Providing electrical high voltage sized conduit for future electric car charging station near parking area: 5 points.~~
  - i. ~~Using light colored, high reflectivity materials for all non-roof/areas with a solar reflectance index (SRI) of at least 29: 10 points.~~

~~j. Using light colored, high reflectivity roofing materials with a solar reflectance index (SRI) of at least 29: 5 points.~~

~~k. Designing the buildings with a vegetated roof of at least 50% of the roof area: 15 points.~~

(d) *Application review process - review, ranking, initial announcement and final determination of award.* Applications received by the application closing date of each year will be evaluated by staff for completeness and applicants will be notified of any deficiencies in the application and be provided a timeframe within which deficiencies can be resolved. In the event that all market rate units are not claimed or applied for, after initial staff evaluation of the applications, any remaining market rate units may be awarded for affordable housing purposes.

Upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee. Based on staff recommendation the planning board shall make the final determination of award.

(e) *Recovered units.* Building permits shall be obtained within two years of the final award date. If a building permit is not issued within that timeframe the allocated units will revert back to the city as a recovered unit for reallocation. ~~during the following sequential award year. If the recovered units are not allocated within the next sequential award year such units will be returned to the department of~~

~~economic opportunity for redistribution pursuant to provisions in the 2012 Hurricane Evacuation Modeling Memorandum of Understanding.~~

(f) *Affordable unit allocations.*

1. All units allocated as affordable are subject to subsections 122-1467(c), (d), (e), and (f) of the workforce housing ordinance.
2. Applicant eligibility requirements are subject to subsections 122-1469(2) through (15) of the workforce housing ordinance.
3. Affordable housing projects enabled by federal tax credit housing are not subject to [subsection] 122-1467(c).

~~(g) *Transient unit allocation process.* Regulations for the allocation of transient units shall be established by April 1, 2016.~~

~~(h)~~ (g) *Penalty.* For projects that fail to achieve the green building standard certification, as purported in the application for which the award was granted, final certificate of occupancy will not be awarded until such time that the applicant is able to establish that the green building standard has been achieved.

**Section 6.** That the proposed amendment to Section 108-998 is as follows\*:

**Sec. 108-998. - Compact infill development and mixed use development incentives.**

The city recognizes the need to encourage the redevelopment of aging commercial properties located within the city in order to promote housing opportunities in proximity

to existing employment centers, and alternative transportation routes. Such development shall be known as compact infill development.

In order to encourage urban infill projects that meet design principles and standards contained in Comprehensive Plan Policy 1-1.1.4 residential density bonuses shall be allowed as follows:

Existing or Proposed <del>Commercial</del> Commercial Development	Additional Density Allowed - Market Rate (MR) and Affordable Housing (AH)	
<u>1,000 s.f. of floor area</u>	<u>0 MR</u>	<u>1 AH</u>
<del>2,500 s.f. of floor area</del>	<del>0 MR</del>	<del>1 AH</del>
5,000 s.f. of floor area	0 MR	2 AH
10,000 s.f. of floor area	0 MR	3 AH
12,500 s.f. of floor area	1 MR	3 AH
15,000 s.f. of floor area	2 MR	4 AH
20,000 s.f. of floor area	3 MR	5 AH
25,000 s.f. of floor area	4 MR	6 AH
30,000 s.f. of floor area	5 MR	6 AH

~~For redevelopment and/or development projects that meet the criteria for density bonuses the following design principals are required:~~

- ~~a. *Housing types:* Provide for a range of housing types, inclusive of apartments, townhouses, efficiencies, accessory units and single room occupancies.~~
- ~~b. *Pedestrian and bicycle linkage:* Provide safe on site bicycle and pedestrian circulation with connectivity to the city's existing bicycle and pedestrian pathway network. Provide enclosed bicycle storage area for residents.~~
- ~~c. *Mixed use redevelopment:* For development including commercial floor area, provide enclosed bicycle storage area together with shower facilities for the bicycle user employees.~~
- ~~d. *Open space and recreation:* Provide a minimum of 5% more than the open space requirement, of which a minimum of 35% shall be designed as collective community gathering/recreation space.~~

**Section 7.** 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 provision of this Ordinance shall be deemed severable therefrom and shall be constructed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

**Section 8.** 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 9.** 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 Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed by the City Commission at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2018

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Filed with the Clerk \_\_\_\_\_, 2018.

Mayor Craig Cates	_____
Commissioner Samuel Kaufman	_____
Vice Mayor Clayton Lopez	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

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CRAIG CATES, MAYOR

ATTEST:



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CHERYL SMITH, CITY CLERK