

**DIVISION 10. – AFFORDABLE AND WORK FORCE HOUSING [22]**

Footnotes:

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Editor's note— Section 1 of Ord. No. 05-27, adopted Oct. 18, 2005, amended the title of Div. 10, Affordable Housing to read as herein set out.

Cross reference— Fair housing, § 38-26 et seq.

**Sec. 122-1465. – Purpose and Intent.**

Intent.

It is the intent of this division to create affordable housing categories to facilitate the development and redevelopment of housing designed and priced to meet the needs of people employed by the local economy in a manner that reflects the percentage of the workforce at each income level and mixes people of all incomes together and does not create high and low-income enclaves.

(Ord. No. 05-27, § 2, 10-18-2005; Ord. No. 19-11, § 2, 5-7-2019)

Purpose.

The City Commission has determined that the public health, safety and general welfare of the community warrants the implementation of affordable, workforce, and employee housing provisions for the following purposes:

1. To implement the goals, policies and objectives of the Key West Comprehensive Plan and increase the supply of housing affordable to targeted income groups within the community; and
2. To provide housing opportunities for lower income groups in order to meet the existing and anticipated housing needs of such persons and to maintain a socio-economic mix in the community; and
3. To address market demands that show that the workforce in the City continues to require moderately priced housing units, particularly those whose earnings range from 50 percent up to 160 percent of the County's median income, the target income groups; and
4. To reduce the out-migration of the people employed in the City and their families which has placed increasing stress in maintaining a viable workforce; and
5. To stimulate the private sector production of affordable housing and encourage the widespread distribution of affordable housing opportunities throughout all portions of the community, including within new and expanding developments; and
6. To provide a range of housing opportunities for those who live and work in the City of Key West and who provide the community with essential services, especially in the public health and safety sectors of the economy.

**Sec. 122-1466. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Affordable housing* shall be defined as provided in the following classifications:

*Affordable housing (100% Median Income ~~very low income~~)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 100 ~~60~~ percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, affordable housing (*100% Median Income ~~very low income~~*) shall mean a dwelling unit whose sales price shall not exceed 3.75 ~~one and one-half~~ times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472. The definition of "affordable housing (100% Median Income)" applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.

*Affordable housing (130% Median Income ~~low income~~)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents from 101 ~~80~~ percent up to 130 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, *Affordable housing (130% Median Income ~~low income~~)* shall mean a dwelling unit whose sales price shall not exceed 4.25 ~~two and one-half~~ times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable housing (160% Median Income ~~median income~~)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents from 131 ~~100~~ percent up to 160 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (*160% Median Income*) shall mean a dwelling unit whose sales price shall not exceed 4.75 ~~three and one-half~~ times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472. ~~The definition of "affordable housing (median income)" applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.~~

*Affordable housing (middle income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 140 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (middle income) shall mean a dwelling unit whose sales price shall not exceed six and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable housing (moderate income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 120 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (moderate income) shall mean a dwelling unit whose sales price shall not exceed five times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable work force housing* shall include affordable (100% Median Income), Affordable (130% Median Income), and Affordable (160% Median Income) ~~very low income, low income, median income, moderate income and middle income housing.~~

*Affordable work force housing trust fund* shall mean the trust fund established and maintained by the city for revenues from fees in lieu of constructing affordable work force housing, and revenues from any other source earmarked for the trust fund by land development regulation, ordinance or donation.

*Annual Household Income* means all amounts, monetary or not, which are received by any family member of the household, except income from employment of children (including foster children) under the age of 18 years. Family shall include the traditional family, (married or not) as well as domestic partnerships.

*Development or redevelopment*, for purposes of this section, shall mean any development or redevelopment that increases the size of a unit(s), the number of units, or a change of use that increases the need for additional affordable workforce housing as evidenced by additional services or intensity.

*Employee housing unit (EHU)* means a dwelling unit which shall not be leased or rented for any period less than 30 consecutive days, and shall be occupied by at least one person who is an employee. For the purposes of this definition EMPLOYEE shall mean a person who works an average of 30 hours per week or more on a year round basis in Monroe County (City of Key West).

*Median household income* shall mean the median household income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 3, 10-18-2005; Ord. No. 17-09, § 1, 8-16-2017; Ord. No. 18-13, § 2, 7-3-2018; Ord. No. 19-11, § 2, 5-7-2019; Ord. No. 21-09, § 1, 3-2-2021)

Cross reference— Definitions generally, § 1-2.

**Sec. 122-1467. – Residential Requirements of Affordable and Work Force Housing** Requirements of affordable work force housing.

(1) Inclusionary Housing Requirements.

(A) At least fifteen percent (15%) of all new housing units shall be affordable (100% Median Income) units as defined herein.

~~Housing units. At least ten percent of all units developed or redeveloped each year shall be low income affordable housing of at least 400 square feet each, as defined herein and 20 percent shall be affordable housing (median income) housing of at least 400 square feet each, as defined herein. Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop or redevelop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be \$200,000.00 (representing construction cost, less land cost, of a 400 square foot unit). The 30 percent affordability requirement shall be determined on a project by project basis and not on a city wide basis. Vested units shall be subject to this subsection if not otherwise governed by law or agreement. For every required affordable housing (median income) unit, a developer~~

may increase the sales or rental rates to affordable housing (middle income) so long as another unit's sales or rental rate is decreased to affordable housing (low income).

(B) At least fifteen percent (15%) of all new housing units shall be affordable (130% Median Income) units as defined herein.

~~Linkage of projects. Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. In addition, if a developer builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.~~

(C) At least fifteen percent (15%) of all new housing units shall be affordable (160% Median Income) units as defined herein.

~~Affordable work force housing. The maximum total rental and/or sales price for all affordable work force housing units in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).~~

(D) Each affordable and workforce housing unit shall be a minimum of five hundred (500) square feet in gross floor area (GFA).

~~Demonstration of continuing affordability. Demonstration of continuing affordability shall be by deed restriction or any other mutually acceptable method that effectively runs with the land and is binding on owners, successors in ownership, or assigns. The deed restriction shall be in a form provided by the city and shall be for a period of at least 99 50 years. It shall be recorded in the county records. During the final year of the deed restriction, the city commission may act by Resolution to renew the affordability restriction for an additional 99-50-year term.~~

(E) Occupants of each affordable and workforce housing unit shall comply with the income guidelines contained herein.

~~Reporting requirements. Owners of affordable work force housing projects or units shall furnish the city manager or his designee with annual information necessary to ensure continued compliance with affordability criteria, beginning one year after the date of building permit issuance and on each anniversary date thereafter. Reporting requirements shall include sworn tenant household verification information. Property owners subject to this subsection may contract with the Key West Housing Authority to perform annual tenant eligibility verification.~~

(F) Reporting requirements. Owners of affordable workforce housing projects or units shall furnish the Housing and Community Development Director or their designee ~~city manager or his designee~~ with annual information necessary to ensure continued compliance with affordability criteria, beginning one year after the date of building permit issuance and on each anniversary date thereafter. Reporting requirements shall include sworn tenant household verification information. Property owners subject to this subsection may contract with the Key West Housing Authority to perform annual tenant eligibility verification.

~~Compliance with antidiscrimination policy. All property owners offering housing under this division shall comply with the antidiscrimination policy of article II of chapter 38.~~

(G) Compliance with antidiscrimination policy. All property owners offering housing under this division shall comply with the antidiscrimination policy of Article II of Chapter 38.

(H) The maximum total rental and/or sales price for Affordable (100% Median Income), Affordable (130% Median Income), and Affordable (160% Median Income), and Employee Housing units shall comply in all respects with income limits, rental rates, sales price limits, and other applicable standards contained herein and elsewhere within the City Code.

(I) *Payment-In-Lieu.* Residential, Transient, or mixed-use projects of less than ten residential units may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be \$750,000 ~~\$200,000.00~~ (representing construction cost, plus land cost, of a 500 square foot unit).

(J) *Linkage of projects.* Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. In addition, if a developer builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. A minimum of forty-five percent (45%) of the total number of housing units proposed, including both market rate and affordable units, must be set aside as affordable units pursuant to Section 122-1467 above. Building permits for the proposed market rate units shall not be issued until all permits required in connection with the affordable, workforce, or employee housing units associated with the project have been issued. A Certificate of Occupancy for any of the proposed market rate units shall not be issued until all Certificates of Occupancy have been issued for any of the proposed affordable, workforce, or employee housing units. In the event, a payment-in-lieu of fee is provided as an alternative to the construction of affordable, workforce, or employee housing units, said fee shall be submitted to the City prior to the issuance of any permits associated with the proposed market rate housing units.

Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.

All linkages must be approved via a covenant running in favor of the City, and if the linkage project lies within the jurisdiction of another municipality, also in favor of that municipality. The covenant shall be placed upon two or more projects linked, stating how the requirements for affordable housing are met for each project. The covenant shall be approved by the City Commission and, if applicable, the participating municipality.

(K) Accessory unit infill.

(1) In all mixed use zoning districts of the city, the city shall encourage the addition of affordable work force housing on the same site as commercial properties and institutions to promote employee housing. Such development shall be known as accessory unit infill. Tenants shall be eligible persons under section 122-1468 ~~122-1469~~. Applicants under this section may provide two bicycle or scooter parking spaces per unit as an alternative to applying to the planning board for parking variances. Provided that units of 600 square feet or less are treated as an 0.78 equivalent unit and all units provided must be made available through the city's building permit allocation system.

(2) The maximum total rental and/or sales price for accessory unit infill in a single development or redevelopment shall be based on each unit being affordable housing (130% Median Income ~~moderate income~~). The rental and/or sales price may be mixed among affordable housing (100% Median Income ~~low income~~), (130% Median Income ~~median income~~), (~~middle income~~) and (160% Median Income ~~moderate income~~) in equal amounts. ~~order that the total value in rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).~~

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 9, 10-18-2005; Ord. No. 08-04, § 30, 5-20-2008; Ord. No. 13-19, § 3, 11-6-2013; Ord. No. 19-11, § 2, 5-7-2019)

(2) Exemptions and waivers.

(A) The following uses shall be exempt from the inclusionary housing requirements set forth in Section 122-1467 above: affordable workforce housing, nursing homes, or assisted care living facilities.

(B) The city commission may reduce, adjust, or waive the requirements set forth in this subsection where, based on specific findings of fact, the commission concludes, with respect to any developer or property owner, that:

1. Strict application of the requirements would produce a result inconsistent with the comprehensive plan or the purpose and intent of this subsection;
2. Due to the nature of the proposed development, the development furthers comprehensive plan policies and the purpose and intent of this subsection through means other than strict compliance with the requirements set forth herein;
3. The developer or property owner demonstrates an absence of any reasonable relationship between the impact of the proposed development and requirements of this subsection (b); or
4. The strict application with the requirements set forth herein would improperly deprive or deny the developer or property owner of constitutional or statutory rights.

(C) Any developer or property owner who believes that they may be eligible for relief from the strict application of this section may petition the city commission for relief under this subsection. Any petitioner for relief hereunder shall provide evidentiary and legal justification for any reduction, adjustment or waiver of any requirements under this section.

**Sec. 122-1468. – Applicant eligibility requirements.**

The following eligibility requirements shall be required of households or persons to qualify for affordable work force housing units to the extent lawful:

(1) The household or person shall derive at least 70 percent of its or his/her total income from gainful employment in the county. Remote work, which is based outside the county, shall not qualify as gainful employment within the county. This section shall not disqualify an individual previously and continuously qualified who reaches the age of retirement, or becomes disabled, and is otherwise income qualified.

(2) At the time of sale or lease of an affordable housing (100% Median Income low income) unit, the total income of eligible household or persons shall not exceed 100 80 percent of the median household income for the county (adjusted for family size).

(3) During occupancy of any an affordable housing (100% Median Income low income) rental unit, a household's income may increase to an amount not to exceed 120 percent of the median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

(4) At the time of sale or lease of an affordable housing (130% Median Income median income) unit, the total income of eligible households or persons shall not exceed 130 100 percent of the median household income for the county (adjusted for family size).

(5) During occupancy of any affordable housing (130% Median Income median income) rental unit, a household's annual income may increase to an amount not to exceed 150 140 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

(6) At the time of sale or lease of an affordable housing (160% Median Income moderate income) unit, the total income of eligible households or persons shall not exceed 160 120 percent of the median household income for the county (adjusted for family size).

(7) During occupancy of an affordable housing (160% Median Income moderate income) rental unit, a household's annual income may increase to an amount not to exceed 180 160 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

(8) At the time of sale or lease of an affordable housing (middle income) unit, the total income of eligible households or persons shall not exceed 140 percent of the median household income for the county (adjusted for family size).

~~(9) During occupancy of an affordable housing (middle income) rental unit, a household's annual income may increase to an amount not to exceed 180 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.~~

(10) Eligibility is based on proof of legal residence in the county as demonstrated by a valid State of Florida driver license or identification card, voter registration card if eligible, and an employer verification form signed by the employer or sufficient evidence, satisfactory to the City or its designee, demonstrating income qualification through self-employment.

(11) Priority shall be given to families of four or more members for larger sized affordable work force housing units.

(12) The applicant shall execute a sworn affidavit stating the applicant's intention to occupy the dwelling unit.

(13) The income of eligible households shall be determined by counting the full amount, before any payroll deductions, of wages, salaries, overtime pay, commissions, fees, tips, bonuses, Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment compensation, disability compensation, worker's compensation, severance pay and any net income from the operation of a business or profession of all household members. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income from operation of a business or profession. Recurring unverified deposits into any savings and/or checking accounts shall be counted towards income. ~~Unrelated adults may be qualified individually for rental purposes provided the total lease payment to the Owner does not exceed the rent limits established by the City.~~

(14) In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rental rate.

(15) The planning board may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

(16) An applicant that holds title to an existing residence, regardless of ownership type, shall not be eligible to participate in the City's affordable and workforce or employee housing programs.

(17) Individuals with savings in excess of \$250,000.00 shall not be eligible to participate in the City's affordable, workforce, or employee housing programs.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 6, 10-18-2005; Ord. No. 08-04, § 29, 5-20-2008; Ord. No. 17-09, § 2, 8-16-2017)

**Sec. 122-1469. –Family size.**

When establishing a rental or sales amount, one shall assume family size as indicated in the table below. This section shall not be used to establish the maximum number of individuals who actually live in the unit.



Size of Unit	Assumed Family Size	Minimum Occupancy
Efficiency (no separate bedroom)	1	1
One bedroom	2	1
Two bedroom	3	2
Three bedroom	4	3
Four or more bedrooms	5	1 per bedroom

**Sec. 122-1470. - Affordable work force housing trust fund.**

(a) The affordable work force housing trust fund (referred to as the "trust fund") is established. The trust fund shall be maintained with funds earmarked for the trust fund for the purpose of promoting affordable work force housing in the city and its immediate environs. Monies received by the trust fund shall not be commingled with general operating funds of the city. The trust fund shall be in a separate dedicated fund used only for the following:

~~(1) Financial aid to developers as project grants for affordable housing (low income) to (moderate income) construction;~~

~~(12) Financial aid to eligible homebuyers of affordable and workforce housing (low income) to (moderate income) as mortgage assistance;~~

~~(23) Financial incentive for the conversion of market rate or transient units to affordable and workforce housing (low income) to (moderate income) residential units;~~

~~(34) Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or~~

~~(45) Other affordable, workforce, or employee housing purposes from time to time established by resolution of the city commission.~~

~~(5) The purchase of deed restrictions for the creation of employee housing units pursuant to this Chapter.~~

~~(6) The City Commission may enter into agreements or make grants relating to the use of trust funds with or to the county housing authority or other local government land or housing departments or agencies, a qualified community housing development organization or nonprofit or for-profit developer of affordable or employee housing, or a municipality within the county.~~

(b) Except as provided in section 122-1471, the city commission shall determine all expenditures from the trust fund upon the advice of the city manager.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 5, 10-18-2005)

**Sec. 122-1470. - ~~Accessory unit infill.~~**

~~(a) In all mixed use zoning districts of the city, the city shall encourage the addition of affordable work force housing on the same site as commercial properties and institutions to promote employee housing. Such development shall be known as accessory unit infill. Tenants shall be eligible persons under section 122-1469. Applicants under this section may provide two bicycle or scooter parking spaces per unit as an alternative to applying to the planning board for parking variances. Provided that units of 600 square feet or less are treated as an 0.78 equivalent unit and all units provided must be made available through the city's building permit allocation system.~~

~~(b) The maximum total rental and/or sales price for accessory unit infill in a single development or redevelopment shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value in rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).~~

~~(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 9, 10-18-2005; Ord. No. 08-04, § 30, 5-20-2008; Ord. No. 13-19, § 3, 11-6-2013; Ord. No. 19-11, § 2, 5-7-2019)~~

**Sec. 122-1471. - Community housing development organization.**

The city commission may promote the establishment of a nonprofit community housing development organization (CHDO), pursuant to federal regulations governing such organizations, to serve as developer of affordable workforce housing units on city-owned property located in both the city and in the community redevelopment areas, including excessed U.S. Navy property, or located in Key Haven and Stock Island in the unincorporated part of the county, upon interlocal agreement. In such event, the city may delegate to the community housing development organization all or partial administration of the affordable housing trust fund.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 10, 10-18-2005)

**Sec. 122-1472. – Nonresidential Inclusionary housing requirements.**

(1) Purpose. Consistent with the Comprehensive Plan, the purpose of this subsection is to ensure that the need for affordable housing is not exacerbated by nonresidential and transient development, as follows:

a. Promote the health, safety and general welfare of the citizens of the City through the implementation of the goals, objectives and policies of the City of Key West Comprehensive Plan; and

b. To ensure that affordable housing opportunities are available throughout the entire community and to maintain a balanced and sustainable local economy and the provision of essential services; and

c. To increase the supply of housing affordable to targeted income groups within the community; and

d. To provide a range of housing opportunities for those who work in the City of Key West but may be unable to pay market rents or market housing prices in the community; and

e. To increase the percentage of the workforce living locally and to provide housing opportunities for lower income groups in order to meet the existing and anticipated housing needs of such persons and to maintain a socio-economic mix in the community; and

f. To address the affordable workforce housing needs generated by the construction and expansion of nonresidential/transient development, and the employment that occurs at the nonresidential/transient development after the construction or expansion is completed; and

g. To ensure that affordable workforce housing is provided to the local workforce by the employee generating development proportionate with the demand for affordable workforce housing the development creates; and

h. To address market demands that show that the workforce in the City of Key West continues to require moderately priced housing units, particularly those whose earnings range from 50 percent up to 120 percent of the County's median income (the target income groups); and

i. To stimulate the private sector production of affordable workforce housing and encourage the widespread distribution of affordable workforce housing opportunities throughout all portions of the community, including within new and expanding developments.

(2) Intent. Nonresidential and transient use development or redevelopment generates a direct impact on housing for the workforce. The intent of this section is to ensure that there is an affordable supply of housing for the local workforce. This will be accomplished by requiring workforce housing be provided for all new development and redevelopment in an amount proportionate to the need for affordable workforce housing that the nonresidential and transient use development or redevelopment creates. The intent of this subsection is to permit nonresidential and transient use owners to continue to establish uses consistent with the current building and safety standards and to ensure that as development and redevelopment occurs, comprehensive plan policies regarding affordable housing are implemented. The technical support and analysis upon which the nonresidential inclusionary housing requirements are established are based upon the 'Affordable Workforce Housing Support Study for Non-Residential Development,' prepared by Clarion Associates, LLC, prepared in June 2017.

(3) Applicability. Except as provided in subsection (4) of this section, the nonresidential inclusionary housing requirements set forth below shall apply. This will be accomplished by requiring workforce housing be provided for all new development and expansions in an amount proportionate to the need for affordable workforce housing that the nonresidential and transient uses create. Expansion as used in this section means extending a use or structure to occupy a greater amount of floor area or square footage beyond that which it occupied. Determinations regarding the applicability of this subsection shall be made by the Planning Director. The applicant shall provide the necessary information to determine compliance with the nonresidential inclusionary housing requirements on the forms prescribed by the Planning Director. For purposes of calculating the number of affordable workforce housing units required by this subsection, density bonuses shall not be counted, and only fractional requirements equal to or greater than 0.5 shall be rounded up to the nearest whole number.

a. New Development. Each new development project not exempted by subsection (4), shall mitigate 50% of the workforce housing demand created by the proposed development by one or a combination of the methods identified in subsection (5).

b. Redevelopment with an Expansion. Each redevelopment project not exempted by subsection (4), shall mitigate 50% of the workforce housing demand created by the proposed redevelopment by one or a combination of the methods identified in subsection (5). The workforce housing required for

nonresidential development when an existing use is expanded shall be calculated based on the incremental increase in size of the existing use (net additional square footage).

c. Redevelopment with a Change in Use Increasing Housing Demand. Each redevelopment project with a change of use increasing housing demand, not exempted by subsection (4), shall mitigate 50% of the workforce housing demand created by the proposed redevelopment by one or a combination of the methods identified in subsection (5). The workforce housing required for nonresidential development when a new use replaces an existing use and increasing housing demand (for example from an industrial use to an office use) shall be calculated based on the square footage proposed for conversion and/or based on the incremental increase in size of the new uses (if any).

d. Unspecified Use. If a proposed development project does not fall within one of the specific use categories in the table within subsection (5), then the Planning Director shall determine whether the use is comparable to a use category listed and assign a category or may allow the applicant to conduct an independent calculation to determine the appropriate affordable workforce housing inclusionary requirement. If the applicant chooses to propose an independent calculation, the following applies:

1. An independent calculation shall require a public meeting with the City Commission to determine if there is a mutually agreeable approach to the calculation prior to the application proceeding to the Development Review Committee for review. The review of the independent calculation will not be scheduled as a public hearing, but as a public meeting during which the City Commission may offer their input and direction and the public may have input on the proposed methodology and calculation.

2. The applicant shall use generally accepted principles and methods and verifiable local information and data, and other appropriate materials to support the employee generation data and housing demand calculated.

3. The City Commission may agree or disagree with the independent calculation for mitigation based on generally recognized principles and methodologies of impact analysis and the accuracy of the data, information, and assumptions used to prepare the independent calculation.

4. Each development project subject to an independent calculation and not exempted by subsection (4), shall mitigate 50% of the demand for workforce housing created by the development.

(4) Exemptions and waivers.

a. The following uses shall be exempt from the nonresidential inclusionary housing requirements set forth in subsections (f)(3) and (5) of this section:

1. Affordable housing developments; and

2. Residential developments; and

3. Nursing homes, assisted care living facilities, and retirement homes; and

4. Public facilities and public buildings and uses limited to parks, public infrastructure and utilities, and wireless communication facilities; and

5. The redevelopment, remodeling, repair or cumulative expansion of a lawfully established nonresidential use that does not increase the area of the nonresidential use by more than 1,000 square feet of gross floor area and the use is not changed to a different use category.

b. The City Commission may reduce, adjust, or waive the requirements set forth in this subsection (f), based on specific findings of fact, where the City Commission concludes, with respect to any applicant, that:

1. Strict application of the requirements would produce a result inconsistent with the Comprehensive Plan or the purpose and intent of this subsection;

2. Due to the nature of the proposed nonresidential development, the development furthers Comprehensive Plan policies and the purpose and intent of this subsection through means other than strict compliance with the requirements set forth herein;

3. The applicant demonstrates an absence of any reasonable relationship between the impact of the proposed nonresidential development and requirements of this subsection (f);

4. The strict application with the requirements set forth herein would improperly deprive or deny the applicant of constitutional or statutory rights; or

Any applicant who believes that he/she may be eligible for relief from the strict application of this section may petition the City Commission for relief under this subsection (f)(4). Any petitioner for relief hereunder shall provide evidentiary and legal justification for any reduction, adjustment or waiver of any requirements under this section. The petitioner shall use generally accepted principles and methods and verifiable local information and data, and other appropriate materials to support the requested relief.

(5) Compliance Requirements. Nonresidential/~~Transient~~ development or redevelopment projects shall provide affordable workforce inclusionary housing as provided in subsection (3) of the workforce housing demand created by the new or expanded development or redevelopment in accordance with the standards in the table below.

a. The table indicates the number of workforce housing units or in-lieu fee needed for every square foot (and per 1,000 sf) of new development or redevelopment (expanded or converted square footage) for each category of non-residential land use.

<b>TOTAL NEED CREATED BY NONRESIDENTIAL DEVELOPMENT (for construction and post-construction employees).</b>				
Land Use Category	Total Housing Need per 1,000 sf (units/1000 sf)	Total Housing Need per sf (units/sf)	Total In-Lieu Fee per 1,000 sf (monetary fee/1000 sf)	Total In-Lieu Fee per sf (monetary fee/sf)

<b>Commercial Retail</b> (Retail stores, supermarkets, shopping centers, restaurants, etc.)	0.416	0.000416	\$66,722	\$66.72
<b>Office</b> (Professional and non-professional office buildings, etc.)	0.704	0.000704	\$78,492	\$78.49
<b>Industrial</b> (Light manufacturing, lumber yards, warehousing, storage facilities, etc.)	0.226	0.000226	\$24,397	\$24.39
<b>Institutional</b> (Religious facilities, private schools, colleges, daycares, etc.)	0.337	0.000337	\$36,284	\$36.28
<b>Tourist/recreational</b> (Theatres, auditoriums, nightclubs, tourist attractions, etc.)	0.614	0.000614	\$104,691	\$104.69
<b>Hotel &amp; Motel</b> (Transient uses)	0.295	0.000295	\$49,947	\$49.94
<b>Governmental</b> (Governmental office buildings, public schools, etc.)	0.427	0.000427	\$38,285	\$38.28
<b>Other</b> (Utility, gas, and electric uses, mining, and sewage disposal facilities)	0.644	0.000644	\$99,838	\$99.83

*Data for the mitigation requirement is from the 'Affordable Workforce Housing Support Study for Non-Residential Development,' prepared by Clarion Associates, LLC, for Monroe County in June 2017.*

b. The inclusionary housing unit requirement (or required number of workforce housing dwelling units) for the nonresidential development or redevelopment shall be calculated by multiplying the per square foot requirement for the appropriate type of land use category by the proposed square footage of the nonresidential development and/or the incremental increase in size of the nonresidential use (net additional square footage) and applying the appropriate mitigation standard.

c. The inclusionary in-lieu fee requirement (or required amount of monetary fee) for the nonresidential development or redevelopment shall be calculated by multiplying the per square foot requirement for the appropriate type of land use category by the proposed square footage of the nonresidential development and/or the incremental increase in size of the nonresidential use (net additional square footage) and applying the appropriate mitigation standard.

d. Expansions to nonresidential and transient uses shall be tracked for cumulative changes and compliance with subsection (f). In phased projects, the inclusionary requirements shall be proportionally allocated among the phases. If a subsequent development or redevelopment is proposed following a prior development approved on the same property, after the effective date of this ordinance, the requirements in this section shall be met as part of the subsequent development or redevelopment.

e. The following table provides EXAMPLE calculations of the nonresidential inclusionary requirements:

	Total Housing Need per sf (units/sf)	Total In-Lieu Fee per sf (monetary fee /sf)		100% Mitigation		50% Mitigation		30% Mitigation	
				Units	In-lieu fees	Units	In-lieu fees	Units	In-lieu fees
<b>Commercial Retail</b> (Retail stores, supermarkets, shopping centers, restaurants, etc.)	0.000416	\$66.72	5,000 SF	2.08	\$333,610	<b>1.04</b>	<b>\$166,805</b>	0.62	\$100,083.0
			10,000 SF	4.16	\$667,220	<b>2.08</b>	<b>\$333,610</b>	1.25	\$200,166
			20,000 SF	8.32	\$1,334,440	<b>4.16</b>	<b>\$667,220</b>	2.50	\$400,332
<b>Office</b> (Professional and non-professional office buildings, etc.)	0.000704	\$78.49	5,000 SF	3.52	\$392,460	<b>1.76</b>	<b>\$196,230</b>	1.06	\$117,738
			10,000 SF	7.04	\$784,920	<b>3.52</b>	<b>\$392,460</b>	2.11	\$235,476
			20,000 SF	14.09	\$1,569,840	<b>7.04</b>	<b>\$784,920</b>	4.23	\$470,952
<b>Industrial</b> (Light manufacturing, lumber yards, warehousing, storage facilities, etc.)	0.000226	\$24.39	5,000 SF	1.13	\$121,985	<b>0.56</b>	<b>\$60,993</b>	0.34	\$36,596
			10,000 SF	2.26	\$243,970	<b>1.13</b>	<b>\$121,985</b>	0.68	\$73,191
			20,000 SF	4.51	\$487,940	<b>2.26</b>	<b>\$243,970</b>	1.35	\$146,382
<b>Institutional</b> (Religious facilities, private schools, colleges, daycares, etc.)	0.000337	\$36.28	5,000 SF	1.69	\$181,420	<b>0.84</b>	<b>\$90,710</b>	0.51	\$54,426
			10,000 SF	3.37	\$362,840	<b>1.69</b>	<b>\$181,420</b>	1.01	\$108,852
			20,000 SF	6.74	\$725,680	<b>3.37</b>	<b>\$362,840</b>	2.02	\$217,704
<b>Tourist/recreational</b> (Theatres, auditoriums, nightclubs, tourist attractions, etc.)	0.000614	\$104.69	5,000 SF	3.07	\$523,455	<b>1.54</b>	<b>\$261,728</b>	0.92	\$157,037
			10,000 SF	6.14	\$1,046,910	<b>3.07</b>	<b>\$523,455</b>	1.84	\$314,073
			20,000 SF	12.28	\$2,093,820	<b>6.14</b>	<b>\$1,046,910</b>	3.69	\$628,146

f. All nonresidential uses not exempted by subsection (4) shall mitigate the demand for workforce housing created by the proposed development or redevelopment by one or a combination of the methods identified below.

1. The construction of workforce housing dwelling units on the site of the development project. The workforce housing dwelling units shall meet the City's affordable housing restrictions as specified herein, for a period not less than 99 years;

2. The construction of workforce housing dwelling units off-site of the development project but within a 15 mile radius of the nonresidential/transient development/ redevelopment. The workforce housing dwelling units shall meet the City's affordable housing restrictions as specified herein, for a period not less than 99 years;

3. The deed-restriction of existing dwelling units within a 15 mile radius of the nonresidential/transient development/redevelopment. The workforce housing dwelling units meet the City's affordable housing restrictions as specified herein, for a period not less than 99 years;

4. The donation of land to the City, upon the acceptance of the City Commission of a proposed parcel or parcels, may satisfy the requirements of this subsection by donating one (1) IS or URM zoned platted lot for each workforce housing unit required but not provided through actual construction or in lieu fees (or a Tier III parcel or parcels of land zoned other than IS or URM as long as the donated parcel(s) have the appropriate density available to support the development of the required number of workforce units); and/or

5. The payment of a fee in-lieu for the inclusionary housing requirement for all or a percentage of the workforce housing units required. The in-lieu fee shall be paid prior to issuance of a building permit for the nonresidential/transient development or redevelopment. All in-lieu fees shall be deposited into the affordable housing trust fund and spent solely for the purposes allowed for that fund.

6. Credit for Employer-provided housing. Employers may offset a portion or all of their obligation under the non-residential inclusionary housing ordinance by directly providing housing opportunities to their full-time employees. Employers may receive credit for each employee housing unit that they provide directly to an employee. Each of said units shall be registered with the City of Key West in a manner prescribed by the Director of Housing and Community Development. Employers shall provide confirmation of continuing compliance with this provision annually pursuant to the direction of the Housing and Community Development Director.

e. If the workforce housing requirement results in less than one (1) affordable dwelling unit, then the applicant may choose to build one (1) affordable dwelling unit or pay the fee in-lieu amount.

#### (6) Applicable Standards.

a. All affordable housing units shall comply with the standards contained within Sec. 122-1467. – Residential Requirements of Affordable and Work Force Housing.



(7) Monitoring and review. The requirements of this subsection (f) shall be monitored to ensure effective and equitable application. Every two years, following the effective date of the ordinance from which this section is derived, the City Commission may request the Planning Director provide to the City Commission a report describing the impact of this subsection on the provision of affordable, workforce, and employee housing and other market or socioeconomic conditions influencing or being influenced by these requirements. Issues such as affordability thresholds, inclusionary requirements, and the impacts of these provisions on the affordable housing inventory and housing needs in the City shall be addressed, in addition to other matters deemed relevant by the director.

(8) Inclusionary Requirement Reduction for Very low and Low Income Units. Certain types of workforce housing are relatively more desirable in satisfying the affordable housing needs of the workforce. To address the market demands that show that the workforce in the City continues to require lower priced rental housing units, particularly those whose earnings are up to or below 80 percent of the County's median income, an applicant with an inclusionary requirement of five (5) or more units, which builds all the required affordable units as low-income and very low-income either on site or within 5 miles of the nonresidential or transient development project, shall have a reduced inclusionary housing requirement of 25%. The workforce housing units shall meet the City's affordable housing rental restrictions as specified in Section 122-1467 for a period not less than 99 years. An applicant may not propose the payment of a fee in-lieu for any portion of the inclusionary housing requirement.

**(g) Linkage of projects.**

(1) Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project. A minimum of fifty percent (50%) of the total number of housing units proposed, including both market rate and affordable units, must be set aside as affordable units pursuant to Section 122-1467 above. Building permits for the proposed market rate units shall not be issued until all permits required in connection with the affordable, workforce, or employee housing units associated with the project have been issued. A Certificate of Occupancy for any of the proposed market rate units shall not be issued until all Certificates of Occupancy have been issued for any of the proposed affordable, workforce, or employee housing units. In the event, a payment-in-lieu of fee is provided as an alternative to the construction of affordable, workforce, or employee housing units, said fee shall be submitted to the City prior to the issuance of any permits associated with the proposed market rate housing units.

Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.

All linkages must be approved via a covenant running in favor of the City, and if the linkage project lies within the jurisdiction of another municipality, also in favor of that municipality. The covenant shall be placed upon two or more projects linked, stating how the requirements for affordable housing are met for each project. The covenant shall be approved by the City Commission and, if applicable, the participating municipality.

**(h) Affordable housing trust fund.** The affordable housing trust fund (referred to as the "trust fund") is established. The trust fund shall be maintained with funds earmarked for the purposes of furthering affordable housing initiatives in municipalities and unincorporated areas of the county. Monies received by

the trust fund shall not be commingled with general operating funds of the City. The trust fund shall be in a separate dedicated fund used only for the following:

(1) Financial aid to eligible homebuyers of affordable, workforce, and employee housing as mortgage assistance;

(2) Financial incentive for the conversion of transient or market rate units to affordable housing, workforce, and employee residential units;

(3) Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or

(4) Other affordable, workforce, or employee housing purposes from time to time established by resolution of the city commission.

(5) The purchase of deed restrictions for the creation of employee housing units pursuant to this Chapter.

(i) **Community housing development organization.** The City Commission may establish a nonprofit Community Housing Development Organization (CHDO), pursuant to federal regulations governing such organizations, to serve as developer of affordable housing units on City-owned property, including or located in the municipalities of the county, upon interlocal agreement. In such event, the City may delegate to the community housing development organization all or partial administration of the affordable housing trust fund.

**Sec. 122-1473. – Employee Housing.**

Sec. 122-1474. - Purpose

Sec. 122-1475. - Applicability

Sec. 122-1476. - General requirements

Sec. 122-1476. - Employee housing unit deed restriction exchange program

**Sec. 122-1474. Purpose.**

The economy for the City of Key West is largely tourist based and the health of this economy is premised on exemplary service for the City's guests. The City's ability to provide such service is dependent upon a strong, high quality and consistently available work force. To achieve such a work force, the community must work to provide quality living and working conditions. Availability and affordability of housing plays a critical role in creating quality living and working conditions for the community's work force. The City recognizes a permanent, year round population plays an important role in sustaining a healthy, viable community. Further, the City recognizes its role in conjunction with the private sector in ensuring housing is available.

**Sec. 122-1475. Applicability.**

(A) The requirements of this chapter shall be in addition to the requirements associated with affordable and workforce housing contained herein.

(B) Where the provisions of this chapter conflict with the provisions of any other chapter, the provisions of this chapter shall control.

**Sec. 122-1476. General Requirements – Employee Housing Units (EHU).**

**(A) Deed restriction, occupancy limitations and reporting requirements.**

(1) No EHU shall be subdivided or divided into any form of timeshare, interval ownerships or fractional fee.

(2) For EHUs which are required to be leased, they shall only be leased to and occupied by tenants who are full-time employees who work in Monroe County. An EHU shall not be leased for a period less than 30 consecutive days. An EHU shall be continuously rented and shall not remain vacant for a period to exceed three consecutive months.

(3) Thirty days prior to the transfer of a deed for an EHU, the prospective purchaser shall submit an application to the Housing and Community Development Department documenting that the prospective purchaser meets the criteria set forth herein and shall include an affidavit affirming that he or she meets these criteria.

(4) No later than February 1 of each year, the owner of an EHU shall submit a sworn affidavit on a form provided by the City to the Housing and Community Development Department containing the following information:

- (a) Evidence to establish that the EHU has been occupied throughout the year by an employee;
- (b) The rental rate;
- (c) The employer; and
- (d) Evidence to demonstrate that at least one tenant residing in the EHU is an employee.

(5) The deed restriction setting forth the provisions of this subsection (A) shall be provided by the City. Said deed restriction shall run with the land and shall not be amended or terminated without the written approval of the City Commission. Said restriction shall be recorded by the City at the Monroe County Clerk's office prior to the issuance of a Certificate of Occupancy.

**(B) Development standards.**

(1) All trash facilities shall be enclosed.

(2) Each EHU shall have its own entrance. There shall be no interior access from any EHU to any dwelling unit it may be attached to.

(3) An EHU may be located in, or attached to, an existing residence or commercial structure provided it conforms with the underlying zoning. An EHU shall only be permitted in connection with a property that has a valid Certificate of Occupancy or Compliance and for which there are no outstanding violations.

(4) All EHUs must contain a kitchen or kitchenette and a bathroom.

(5) Occupancy of an EHU shall be limited to a maximum of two persons per bedroom.

**(C) Application requirements.**

(1) Applicants for an EHU shall file an application with the Director of the Department of Housing and Community Development.

(2) The Director of the Department of Housing and Community Development shall establish application requirements for the processing of EHU permits. This shall include, but not be limited to, a signed and notarized application, floor plan, survey, and fee prepared pursuant to the satisfaction of the Director.

(3) A development review application shall include the signatures of all owners of the property (i.e., both sides of a duplex) or there shall be a letter accompanying the application from all owners agreeing to the addition of an EHU. Applications will not be accepted unless this provision is met.

(D) Enforcement. All EHUs governed by this chapter shall be operated and maintained in accordance with this title. Failure to do so may result in enforcement proceedings in a court of competent jurisdiction.

(E) Written management plan. An EHU shall be governed by a written management plan or other written program approved by the Housing and Community Development Director. The management plan is the principal document in guiding the use of the EHU and shall be subject to the review and approval of the Housing and Community Development Director in accordance with this Chapter.

(1) Management plan contents.

(a) Parameters. The management plan shall include all relevant material and information necessary to establish the parameters of the EHU.

(b) Exclusive use. The management plan shall demonstrate that the EHU is exclusively used for and remains available for employee housing.

(c) Notice of record. The management plan shall provide a mechanism to provide adequate notice of record to prospective owners to ensure that the requirements of the plan shall be met with any future changes in ownership.

(d) Occupancy. The management plan shall include adequate provisions to ensure that the EHU shall be occupied, and shall not remain vacant for a period to exceed three consecutive months.

(e) Affidavit. No later than February 1 of each year, the owner of a EHU shall submit to the Housing and Community Development Director one copy of a sworn affidavit on a form from the Housing and Community Development Director, to establish that the EHU has been used in compliance with the management plan.

(f) Other items. The management plan shall include such other items as the Housing and Community Development Director deems necessary.

(2) Amendments. Amendments to an approved management plan shall be subject to the review and approval of the Housing and Community Development Director in accordance with this section.

(3) Findings. In addition to the provisions contained herein, the Housing and Community Development Director shall make the following findings before approving a management plan:

(a) That the management plan is in accordance with the intent and purposes of this chapter and the City Code;

(b) That the management plan effectively provides employee housing; and

(c) That the management plan effectively provides adequate notice to prospective owners of the requirements of the management plan and the occupancy requirements for an EHU.