



THE CITY OF KEY WEST
1300 White Street – Key West, Florida 33040

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Dan Gulizio, Senior Planner

Meeting Date: July 23, 2024

Application: **Text Amendment of the Comprehensive Plan** – A Resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission to amend the City of Key West Comprehensive Plan Chapter 3 – Housing Element to amend the requirements for affordable and work force housing; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Request: The Resolution recommends that the City Commission adopt the proposed amendments to the City of Key West Comprehensive Plan Chapter 3 – Housing Element to modify the requirements for affordable and work force housing.

Background:

The City of Key West is uniquely limited in its efforts to meet local housing needs. Like other coastal communities, the City of Key West is geographically limited in its ability to grow. In addition, the City has a finite capacity for growth based upon a series of environmental constraints including groundwater capacity, wastewater capacity, threatened and endangered habitat types, traffic capacity associated with hurricane evacuation...etc. Most importantly, the State has designated the City of Key West and the entire Florida Keys as an “Area of Critical State Concern.”

The designation of the City of Key West as an Area of Critical State Concern has included limitations on the number of new market rate and affordable housing units that can be constructed within the City. The most recent allocation of development permits included 921 market rate and affordable housing units in 2013 with 91 units in each of the following ten years. It is expected that the City will issue its last allocations in the 2024 or 2025 allocation cycles. The conversion of thousands of long-term rental units into short-term vacation rentals in recent years has also reduced the available number of units needed to support local workers, emergency service personnel, and families that have lived here for generations.

Finally, the City of Key West is home to the largest Historic Preservation District in the State of Florida. Development within the City’s Historic District is further limited by design guidelines that have been adopted by the City and approved by the State Historic Preservation Office – commonly referred to as the Florida Division of Historic Resources.



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Taken together, these limitations make the development of affordable and workforce housing particularly challenging in the City of Key West. Growth restrictions tied to the Area of Critical State Concern prevent the City from promoting the development of higher density housing patterns through incentive-based zoning strategies. At the same time, environmental and geographic constraints have historically limited both the location and density of housing.

The City has attempted to address the need for affordable housing through the Work Force Housing Ordinance contained in Article V, Division 10 of the Land Development Regulations. Section 122-1465 establishes the purpose of the ordinance. It states:

Sec. 122-1465. - 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.

The Work Force Housing Ordinance requires that thirty percent (30%) of all housing units “developed or redeveloped each year shall be set aside as affordable units” with a mix of income levels varying between Affordable (low income - 80% of median income) to Affordable (median income – 100% median income).

Under the current approach, an applicant may also contribute a payment in lieu fee of \$200,000 per affordable housing unit. An applicant may construct the required number of affordable housing units on-site or off-site through a linkage project. The linkage project allows an applicant to construct the required number of affordable housing units on an alternative or secondary site provided such units are constructed either before or simultaneously with the proposed market rate units. Under the Work Force Housing ordinance, all affordable units must be deed restricted for a period of at least 50 years and the City Commission is empowered to renew the affordable restriction for an additional 50 year period during the final year of the restriction.

Owners of affordable work force housing projects are also required to furnish the city 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 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.

The current Work Force Housing ordinance also provides for both exemptions and waivers. Affordable work force housing, nursing homes, and assisted care facilities are exempt from the ordinance. The City may also “reduce, adjust or waive” the requirements of the ordinance where, *“based on the specific findings of fact, the commission concludes, with respect to any developer or property owner, that:*



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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.”*

The current ordinance also establishes an “Affordable Work Force Housing Trust Fund” which is “*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;*
- 2) *Financial aid to eligible homebuyers of affordable housing (low income) to (moderate income) as mortgage assistance;*
- 3) *Financial incentive for the conversion of transient units to affordable housing (low income) to (moderate income) residential units;*
- 4) *Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or*
- 5) *Other affordable work force housing purposes from time to time established by resolution of the city commission.”*

The Work Force Housing Ordinance also establishes fifteen (15) eligibility requirements for potential occupants including:



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- (1) The household or person shall derive at least 70 percent of its or his/her total income from gainful employment in 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 (low income) unit, the total income of eligible household or persons shall not exceed 80 percent of the median household income for the county (adjusted for family size).
- (3) During occupancy of any an affordable housing (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 (median income) unit, the total income of eligible households or persons shall not exceed 100 percent of the median household income for the county (adjusted for family size).
- (5) During occupancy of any affordable housing (median income) rental unit, a household's annual income may increase to an amount not to exceed 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 (moderate income) unit, the total income of eligible households or persons shall not exceed 120 percent of the median household income for the county (adjusted for family size).
- (7) During occupancy of an affordable housing (moderate income) rental unit, a household's annual income may increase to an amount not to exceed 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.



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(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. 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.

Finally, the ordinance includes a provision entitled "Accessory Unit Infill." This provision encourages the development of affordable work force housing units in mixed use zoning districts to promote employee housing. It permits the development of units that are 600 square feet or less to be treated as an 0.78 equivalent unit, provided all units are made available through the Building Permit Allocation System (BPAS). Applicants under this section may also substitute two bicycle or scooter parking spaces per unit as an alternative to a parking variance.

Staff Analysis:

Despite its benefits, the existing Work Force Housing Ordinance has proved inadequate to meet the increasingly desperate need for affordable and workforce housing units within the City of Key West. Local businesses continue to struggle to find and retain workers needed to support the local economy. Teachers,



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nurses, doctors, emergency service personnel, municipal employees and local families are increasingly priced out of the housing market. The advent of short-term vacation rentals through Airbnb and VRBO, along with a rise in second and third vacation home units, has exacerbated the ongoing struggle to find housing for both those in need and local workers.

There are 267 cities, 123 towns, 21 villages and 67 counties in the State of Florida. According to current estimates, the City of Key West has an area of 4.2 square miles and a full-time population of 26,444. This equates to a population density of 6,296 people per square mile. In comparison, the United States has a population density of 87 people per square mile, the state of Florida has a population density of 414 people per square mile and Monroe County has a population density of 87 people per square mile. If the City of Key West were a country, it would be the 7th densest country in the World.

According to a 2011 housing study prepared by Monroe County, the number of seasonal housing units rose from 12,628 in 2000 to 15,262 in 2005 to 19,195 in 2008. This increase in seasonal housing units within the county coincided with a proportionate decrease in permanently occupied units over the same period with decreases from 35,086 to 29,084. According to the same study, the number of non-homesteaded properties increased by 1,413 units between 2000-2009.

Data provided by the City of Key West Department of Housing and Community Development reveals that the City has a total inventory of 399 deed restricted affordable housing units. This includes 300 rental units and 99 Homeownership units. A breakdown of these units can be found below:

Period of Affordability:

Rentals:

109 – In Perpetuity

191 – Sunset

Period Of Affordability	Number of Units	POA expiration
Perpetuity	109	(103 of these are Garden View)
Sunsetting	32	2027 -2029
	21	2030-2034
	40	2052 – 2058
	48	2067-2068
	37	2072-2073
	13	Unknown – Need to pull deed restrictions



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98 units will go on-line in 2025 for the Lofts of Bahama Village they have a 99-year restriction

Homeownership Units:

Period Of Affordability	Number of Units	POA expiration
Perpetuity	16	None
30 years	30	04/20/2035
30-years	16	07/31/2030
99-years	39	02/28/2107

In 2025 the City will have an additional 28 units come online that will have a period of affordability of 99-years and expire in 2122. The units are the Lofts of Bahama Village.

As discussed in a companion report, Planning staff is respectfully recommending several changes to the existing Work Force Housing Ordinance. A number of these recommendations trigger the need for updates to the City of Key West Comprehensive Plan. Specifically, Chapter 3 – Housing Element of the Plan includes specific standards related to the income of an occupant of a Work Force Housing unit and the percentage of new and redeveloped units that must be set aside as affordable or Work Force Housing.

The following summary provides an overview of the recommended changes to the City of Key West Comprehensive Plan associated with the draft modifications to the Work Force Housing Ordinance.

Simplification and Expansion of the Income Categories –

The proposed ordinance changes include the combination of the above noted five income categories into three categories along with an increase in the maximum permitted income from 140% to 160%. The recommended changes are noted below.

- Affordable Housing (Less than 100% of median income)
- Affordable Housing (Less than 130% of median income)
- Affordable Housing (Less than 160% of median income)

Increase in the Percentage of Units that Must be Set Aside as Work Force Units –

A second change that is suggested is to increase the percentage of new and redeveloped units that must be set aside as affordable from a total of thirty percent (30%) to a total of forty-five percent (45%). The percentage of affordable units is proposed to be spread evenly over the three newly consolidated income categories noted above. It is noted that under the City’s Building Permit Allocation System (BPAS) seventy-five percent (75%) of all new allocations must be set aside as Work Force Housing units.



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These changes to the Work Force Housing Ordinance require updates to the Housing Element of the Comprehensive Plan to ensure that there is consistency between the Plan and the Land Development Regulations consistent with Florida Statute. The changes to the Housing Element of the Comprehensive Plan are noted below:

Policy 3-1.1.3: - Ratio of Affordable Housing to Be Made Available City-Wide.

At least ~~30~~ 45 percent of the aggregate of all residential units constructed each year in the City shall be affordable as herein defined in accordance with the adopted Workforce Housing Ordinance. Residential or mixed-use projects of less than ten residential units shall be required to either develop 30 percent of the units as affordable units on- or off-site, or contribute a fee in lieu thereof. However, residential projects of ten units or more shall provide affordable units on- or off-site and will not have the option of fees in lieu of construction. Commercial developments shall be required to provide affordable housing units or fees in lieu thereof based on provisions included in the updated Land Development Regulations.

Policy 3-1.1.8: - Affordable Housing Applicant Eligibility Requirements.

The following eligibility criteria shall be required for households qualifying for affordable housing units to the extent lawful; however, a waiver mechanism shall be provided in the Land Development Regulations.

1. The household shall derive at least 70 percent of its household income from gainful employment in the City of Key West.
2. The total income of eligible households shall not exceed ~~140~~ 160 percent of the median income for the City of Key West.
3. Eligibility is based on proof of legal residence in the City of Key West.
4. Single persons eligible for affordable housing shall be 18 years or older.
5. Priority shall be given to applicants whose head of household is elderly, disabled non-elderly, or a veteran.
6. Priority shall be given to larger families for larger sized affordable housing units.
7. The applicant shall execute a sworn affidavit stating the applicant's intention to occupy the dwelling unit.



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Comprehensive Plan Text Amendment Process:

Planning Board Meeting:	July 23, 2024
City Commission (1st Reading):	August 8, 2024
Dept. of Commerce (1st Review):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD
Local Appeal Period:	30 days
Dept. of Commerce Review (2nd Reading):	Up to 45 days
Dept. of Commerce Notice of Intent (NOI):	Effective when NOI posted to DOC site

Analysis:

The purpose of amending the Comprehensive Plan is contained in Section 90-551 of the City Code. It is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city commission shall consider, in addition to the factors set forth in this division, the consistency of the proposed amendment with the intent of the comprehensive plan.

Pursuant to Section 90-553, comprehensive plan amendments may be proposed by the city commission, the planning board, the city manager or the owner of real property within the city affected by the proposed amendment or the agent of such owner. In addition to site-specific amendments, the city commission, the planning board, or the city manager may initiate general amendments to the comprehensive plan.

Section 90-555 establishes criteria for approving amendments to the comprehensive plan. In evaluating proposed changes to the comprehensive plan future land use map, the city shall consider the following criteria:

- (1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.
- (2) Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.



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(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

(5) Adequate public facilities. Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to chapter 94.

(6) Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

(7) Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

(8) Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

(9) Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

(10) Other matters. Other matters which the planning board and the city commission may deem appropriate.

Pursuant to Section 90-556, the planning board, regardless of the source of the proposed change in the comprehensive plan, shall hold a public hearing thereon with due public notice as described in this division. The planning board shall consider recommendations of the city planner, city attorney, building official and other information submitted at the scheduled public hearing. The planning board shall transmit a written report and recommendation concerning the proposed change in the comprehensive plan to the city commission for official action. In its deliberations the planning board shall consider the criteria in section 90-555.



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Recommendation:

The “*Draft*” amendments of the Housing Element of the City’s Comprehensive Plan are required to ensure consistency between the Plan and the Land Development Regulations. It is respectfully recommended that the Planning Board recommend to the City Commission APPROVAL of the proposed amendments to the Housing Element of the Comprehensive Plan.