

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 86 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED “GENERAL PROVISIONS”, SECTION 86-9, ENTITLED “DEFINITION OF TERMS” AND CHAPTER 108, ENTITLED “PLANNING AND DEVELOPMENT”, SECTION 108-997, ENTITLED “PERIOD OF ALLOCATION AND RANKING/REVIEW OF APPLICATIONS”; PURSUANT TO CHAPTER 90, ARTICLE VI, DIVISION 2; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the provisions of Chapters 163, 166, and 380 of the Florida State Statutes, the City of Key West, Florida (the “City”) proposes to amend Chapter 122 of the Land Development Regulations (the “LDRs”); and

WHEREAS, pursuant to Section 86-9 and Section 108-997 of the LDRs, in order to be eligible to receive an allocation award from the BPAS system, 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; and

WHEREAS, the amendment will reduce the minimum number of gallons from 1,000 gallons to 300 gallons; and

WHEREAS, the amendment will provide for exemptions from the prerequisite requirement if the applicant proposes additional voluntary deed-restricted affordable housing or makes a payment to the City’s stormwater fund; and

WHEREAS, the matter was presented to the Planning Board for approval at its regularly scheduled meeting held on March 21, 2019; and

WHEREAS, the Planning Board found that it is in the public interest to amend Section 86-9 and Section 108-997 and made a recommendation of approval to the City Commission through Resolution no. 2019-18.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That Chapters 86 and 108 of the Land Development Regulations are hereby amended as follows: *

Section 86-9. – Definition of terms.

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:

(1) All new units shall be constructed in compliance with and obtain a baseline green building certification.

(2) 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.

~~(3) All new buildings shall be constructed with a rainwater catchment system that will hold a minimum 1,000 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater.~~

(3) All new buildings shall be constructed with a rainwater catchment system that will hold a minimum 300 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater. However, the use of the water from rainwater catchments shall be limited to irrigation of plants and the flushing of toilets and be strictly prohibited from any potable use including drinking, food preparation, or any other internal use. If the cistern will be used for drinking water, appropriate precautions must be taken.

Section 108-997. – Period of allocation and ranking/review of applications.

(a) *Application and allocation period.* The annual building permit allocation period will begin on July 1 of each year, and shall end on the 30th 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.~~

~~c. All new buildings shall be constructed with a rainwater catchment system that will hold a minimum 300 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater. However, the use of the water from rainwater catchments shall be limited to irrigation of plants and the flushing of toilets and be strictly prohibited from any potable use including drinking, food preparation, or any other internal use. If the cistern will be used for drinking water, appropriate precautions must be taken.~~

~~d. An applicant may request to be exempted from the rainwater catchment requirement, if:~~

~~(i) the applicant is voluntarily providing affordable housing at median or low-income classification which exceeds the requirements of section 122-1467 by at least twenty percent.~~

~~(ii) the applicant seeks to create an accessory unit(s) but the impervious surface and/or building coverage ratio maximums for the parcel have been met or exceeded, and the applicant contributes a fee of \$2 per required gallon in mitigation to the City's stormwater fund.~~

(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. All buildings with new units must meet compliance with Florida Green Building Coalition's Level 3 Green Home Retrofit 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 non-transient units as follows:

- a. Building more than 1.5 feet higher than the base flood elevation: 5 points.
- b. Exceeding the minimum required percentage of affordable housing: 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. Achieving Green Building Certification Upgrade 1: 20 points.
- f. Achieving Green Building Certification Upgrade 2: 27 points.
- g. Achieving Green Building Certification Upgrade 3: 40 points.
- h. Voluntary contribution to the arts in public places fund or tree fund in the amount of \$2,500.00 or more: 5 points.
- i. Providing electrical high voltage sized conduit for future electric car charging station near parking area: 5 points.
- j. Using light colored, high reflectivity materials for all non-roof/areas with a solar reflectance index (SRI) of at least 29: 5 points.
- k. Providing on-site recreational amenities or exceeding the open space requirements of section 108-346 (b) of article V of chapter 108: 10 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. Applications for affordable units as minor renovations or accessory units can be received at any time during the BPAS allocation year, as long as their application meets the average application score from the prior year. If the score does not meet the average score of the prior year, the application will be held and ranked as part of the annual application cycle.

- (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 to the city for reallocation.
- (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) *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.
- (Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-01, § 1, 1-4-2018; Ord. No. 18-11, § 5, 6-5-2018)

*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined; deleted language is ~~double struck through~~ at second reading.

Section 3. 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 4. 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 5. 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 _____, 2019.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2019.

Authenticated by the presiding officer and Clerk of the Commission on the _____ day of _____, 2019.

Filed with the Clerk _____, 2019.

Mayor Teri Johnston	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Vice Mayor Sam Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK