



CITY OF KEY WEST

Building Permit Allocation System 2024 Annual Report

INTRODUCTION:

This annual report is written in accordance with Section 108-995 of the Building Permit Allocation System Ordinance (BPAS) (Ordinance 13-19). This section requires the City Planner charged with implementation and interpretation of the Land Development Regulations to provide an annual report to the Planning Board and the State Land Planning Agency to identify any remaining or unused allocations for the current year and the number of permits by building type that have been allocated by September 1 for each year of the BPAS.

ANALYSIS RESULTS:

The City's Building Permit Allocation System (BPAS) is a growth management mechanism developed and implemented in 1993 to ensure adequate evacuation time for residents and visitors in the event of a hurricane possibly affecting the City. The BPAS is also commonly referred to as the Rate of Growth Ordinance, or "ROGO", as the intent of the ordinance is to limit the amount and rate of new residential units approved in the City.

Building Permit Allocation System Ordinance 13-19

Ordinance 13-19 updated the existing Building Permit Allocation System regulations in response to the newly adopted Comprehensive Plan policies and the 2012 Hurricane Evacuation Model Memorandum of Understanding. The amendments established an application process for the allocation of 91 new residential units to be received from the State Department of Economic Opportunity (DEO) annually for ten years as well as necessary changes that allow for clarification, simplification, and ease of use for the residential development regulations process.

- 1. Lawful Unit Determination Process (LUD's)** – Under the Ordinance 13-19, the date a homeowner must prove his/her unrecognized residential unit was in existence changed from April 1, 1990 to April 1, 2010, which is based on the most recent published US Census population data. The intent of the Building Permit Allocation System (BPAS), pursuant to City Code Section 108-987, is to implement the City's Comprehensive Plan by limiting annual permanent (non-transient) and transient residential development. All new permanent and transient residential units within the City are subject to the BPAS, except as expressly exempted in City Code Section 108-991.

2. Beneficial Use Criteria – Regulations codify Comprehensive Plan Policy 1-1.16.1 which required that the remaining residential BPAS units (from the original 1993 allocation) be reserved for Beneficial Use purposes only. The City has reserved enough Beneficial Use allocations to cover any potential takings claims, leaving the new unit allocations available for new development. The Planning Department accepts residential units into the Beneficial Use pool, if property owners elect to utilize a waiver and release of building permit allocation to voluntarily reduce onsite residential density in order to receive and utilize transient units and licenses pursuant to the criteria in Sec. 122-1339 – Transfer of transient business tax receipt. In other instances, property owners choose to reduce the total number of legal on-site units on their property and voluntarily surrender these units to the City’s beneficial use pool, allowing them to be utilized elsewhere on the island.

Total Beneficial Use Units Allocated through 2023	
Total Beneficial Use Allocation Surplus through June 30, 2024	120.55
Total Beneficial Use Allocated from July 1, 2023 through June 30, 2024	5
Total Recovered / Surrendered from July 1, 2023 through June 30, 2024	0
Total Surplus:	115.55

Source: City of Key West Planning Department 2024

3. Application Process - Using the framework adopted in the 2013 Comprehensive Plan, staff created an application process that ensures that the limited number of residential unit allocations is distributed in a fair and equitable manner over time and that any future residential development contributes to the sustainable future of the City of Key West.

Allocations by Residential Unit Type – Based on requirements in the Comprehensive Plan the Ordinance requires that unit types be allocated as follows:

Allocations by Residential Unit Type				
Application / Allocation Year	Affordable Housing Units (AH)*	Market Rate Units	Transient Rental Units	Total Units
2013/2014	48 Units dedicated for Peary Court; 7 AH units available for allocation	Maximum of 36	0	91 annually
2014/2015 2015/2016	Minimum of 55 annually	Maximum of 36 annually; 72 over 2 years	0	91 annually
2016/2017 2017/2018	Minimum of 45 annually	Maximum of 46 annually; 92 over 2 years	Maximum of 10 annually (deducted from market rate)	91 annually
2018/2019 2019/2020 2020/2021	Minimum of 45 annually; 135 over 3 years	Maximum of 46; 138 over 3 years	0	91 annually; 273 over 3 yrs
**2021/2022	38.4 market rate units and 89.6 affordable units shall be allocated to the property currently known as the 3.2 development in Bahama Village	Maximum of 7.6	0	91 annually
**2022/2023	Minimum of 0.4	Maximum of 46	0	91 annually
***2023/2024	<u>75% of all remaining units allotted must be affordable</u>	<u>Maximum 25%</u>	<u>0</u>	<u>Up to 272.40</u>
Total available allocations Years 1-11	480	430		910

*Per City Commission Ordinance 17-13

**Per City Commission Ordinance 22-06

***Per City Commission Ordinance 23-03

4. Application Review and Ranking – The Building Permit Allocation application period was amended through Ordinance 23-03 and Ordinance 23-04 to continue allocation of residential units after 2023 until all units have been allocated. After year ten (10), 75 percent of

residential building permit units shall be deed restricted affordable, including any units which have reverted to the city which were previously allocated and unused within the timeframe specified. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board. Based on the level of proposed development, development plan approvals will be reviewed by the relevant Boards and Commissions no later than June of the award year. An application approval and allocation schedule will be published in June of each year with the specific deadlines and dates anticipated for final allocation approvals. BPAS Year 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 have been allocated as follows:

BPAS Award Allocations					
Allocation Year	Total Number of Units Allocated (ESFU)				
	Market Rate	Market Rate to Deed Restricted Affordable	Affordable	Affordable Advanced Award	Transient
Year 1	36		55	15.9	0
Year 2	31		44.1	8.46	0
Year 3	7		14.72	0	0
Year 4	29		22	0	8.6
Transferred Via Ordinance No. 17-13	0		104	0	0
Year 5	46		4.78	0	0
Year 6	9		105.56	0	0
Year 7	7		2.34	0	0
Year 8	43		24.96	0	0
Ordinance No. 22-05 3.2 Acre Set-Aside Year 9	34.40	1.86	89.74		0
Year 9	11	3.78	0	0	0
Year 10	10		9		
Ordinance No. 24-08 (301 White St Set aside) Year 11	53		218.56		0
Allocations Subtotal	316.40	5.64 (deducted from market rate pool)	<u>694.76</u> 719.12	<u>24.36</u>	8.6 (deducted from market rate pool)

BPAS Summary			
	Market Rate	Affordable	Grand Total
<u>Total Allocations Available Year 11 and beyond (2023-0)</u>	68.1 (maximum)	204.3 (minimum)	272.40
<u>Total Allocated Year 11</u>	53	218.56	271.56
<u>Total # Recovered/Surrendered Units</u>	10	4.78	14.78
<u>Total Allocations Remaining Year 12 2024/25</u>	10	4.78 + 0.84 =5.62	15.62

*Source: PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2021-20, 2022-27, 2023-10, Ordinance 17-13, Ordinance 22-05, Ordinance 22-06, Ordinance 23-03, Ordinance 23-04, Waiver Agreement, and CS/HB 1499. One hundred three (103) affordable units were surrendered/recovered to the affordable BPAS pool and were replaced with Early Evacuation units. The 103 units were awarded on April 22, 2021, PB Resolution 2021-06.

The Third District Court of Appeal filed an opinion on August 3, 2022, affirming the final order of the Department of Economic Opportunity (DEO), which determined that the Comprehensive Plan Amendments adopted by the City of Key West are in compliance with Florida law. This decision allows 300 new residential units to be built in Key West. The additional units must be deed-restricted for workforce affordable housing units. Below is an overview reflecting the number of deed-restricted for workforce affordable housing units allocated to date:

Resolution or Ordinance #	Property Address	# Units Allocated
PB RES 2021-06	Garden View Apartments 5220, 5224, 5228 & 5230 College Rd	103
ORD 22-23 & ORD 22-24	Monroe County School Board 240 & 241 Trumbo Road	150
ORD 23-20 & ORD 23-21	907 Caroline Street	4
	Total Available Units	43

CONCLUSION:

The Planning Department estimates that a total of 120.55 beneficial use units remain unallocated and will be reserved as a contingency for potential beneficial use claims.

Years 1, 2, 3, 4, 5, 6, 7, 8, 9 10, and 11 of the BPAS have allocated a total of 1,035.52 units, of which just over 69-percent are for deed-restricted affordable rate projects. This number is larger than the initial 910 given out due to units expiring and being returned to the city for reallocation. The City of Key West amended the Comprehensive Plan (Ord. 23-04) and Land Development Regulations (Ord. 23-03) to allow for the allocation of BPAS units after 2023. Annual allocation cycles shall continue until all residential building permits have been allocated or until amended or extended by an appropriate action of the City Commission.

Attachments: A: Year 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11 BPAS Allocations (PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2021-20, 2022-27 & 2023-10) Ordinance 17-13, Ordinance 22-05, Ordinance 22-06, Ordinance 23-03, Ordinance 23-04, Waiver Agreement, CS/HB 1499, and 3rd DCA Opinion.