

ORDINANCE NO. 17-13

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 1 OF THE COMPREHENSIVE PLAN ENTITLED "FUTURE LAND USE ELEMENT" BY AMENDING POLICY 1-1.16.1, ENTITLED "MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE," AMENDING POLICY 1-1.16.2, ENTITLED "BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING," AMENDING POLICY 1-1.16.3, ENTITLED "PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE," AND BY ADDING POLICY 1-1.16.5 ENTITLED "TRANSFER OF BUILDING PERMIT ALLOCATIONS;" BY AMENDING CHAPTER 2 ENTITLED "TRANSPORTATION ELEMENT," BY AMENDING POLICY 2.16.4 TO PROPERLY REFLECT AS POLICY 2-1.6.4, AND REVISING THE REFERENCE TO THE NUMBER OF ALLOCATED UNITS; AMENDING CHAPTER 3 OF THE COMPREHENSIVE PLAN ENTITLED "HOUSING," BY AMENDING POLICY 3-1.1.4, ENTITLED "BUILDING PERMIT ALLOCATION SYSTEM;" PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission has passed numerous resolutions aimed at increasing the availability of affordable and workforce housing in the City of Key West; and

WHEREAS, development of any housing is strictly controlled by the State of Florida, which has designated the City of Key West as a State Area of Critical Concern; and

WHEREAS, this state regulation has resulted in a specified number of new building permits that may be granted each year under what is known as the Building Permit Allocation System (BPAS); and

WHEREAS, based on recommendations by the Department of Economic Opportunity, changes to the City's Comprehensive Plan were requested; and

WHEREAS, the City Commission finds that it is in the best interest of the City that there exists a method to transfer Building Permit Allocations not utilized within the City to Lower Keys areas of Monroe County, for beneficial use purposes and/or affordable housing that will directly benefit the City of Key West as determined by the City Commission; and

WHEREAS, Chapter 1, entitled "Future Land Use Element" and Chapter 3, entitled "Housing" are to be amended through ordinance in response to the Department of Economic Opportunity; and

WHEREAS, the Planning Board ("Board") held a noticed public hearing on May 18, 2017, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, the Board recommended approval of the proposed amendments set forth in Planning Board Resolution 2017-21; and

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

**Section 1:** That Chapter 1 of the Comprehensive Plan is hereby amended as follows\*:

**Policy 1-1.16.1: Maintain a Building Permit Allocation Ordinance.**

The City of Key West shall maintain and enforce its building permit allocation ordinance as follows: Between 85 and 100 units will be reserved as beneficial use permits to address property rights associated with existing vacant lots of record. The permit allocation system shall limit the number of permits issued for new permanent and transient development to 910 units during the period from July 2013 to July 2023. The annual allocation will not exceed be ninety-one units (91) single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.16.3. The annual allocation limitation shall not apply to affordable housing allocations. In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013 - July 2016) 60 percent of the units

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

allocated shall be affordable. Between years four (4) and 10 (2016 - 2023), a minimum of 50% of the total allocations shall be affordable. ~~Between years four (4) and 10, 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient.~~ Between years four (4) and 10, no more than 10 percent may be transient. During Year One (1) (July 2013 - 2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, being transferred from military to private sector housing.

The annual building permit allocation period will begin on July 1 of each year and shall end on the 30<sup>th</sup> of June of the following year. ~~The Annual Building permit allocation period will begin on July 1 of each year. Applications will be accepted between July 1 and September 30. Applications will be reviewed and processed by City staff and the appropriate boards between October 1 and April 1. Applicants will be allowed to amend their application to address review comments during that timeframe. Final award will occur on or around July 1 or the year following receipt of the application.~~ Staff may consider the following criteria in ranking applications: 1) building one to two feet higher than the base flood elevation; 2) exceeding the minimum required percentage of affordable housing; 3) compliance with green building standards; 4) compliance with adopted urban design

standards, and; 5) a minimum contribution to a sustainability and open space recreation fund.

Building permits shall be obtained within two years of the development approval date. If a building permit is not obtained within that timeframe the allocated units will revert to the City for reallocation ~~during the next allocation season. If the recovered units are not allocated within one year they will revert to the County for beneficial use purposes and/or affordable housing.~~

**Policy 1-1.16.2: Building Permit Allocation Ordinance and Affordable Housing.**

The City permit allocation system shall require that sixty percent (60%) of all new permanent residential units be affordable units based on definitions and criteria contained in Policy 3-1.1.7 and 3-1.1.8 between July 1, 2013 and July 1, 2016, and that a minimum of fifty percent (50%) of the total allocations be affordable between July 1, 2016 and July 1, 2023.

**Policy 1-1.16.3: Permit Allocation System Ratios by Structure Type.**

The permit allocation system shall be sensitive to differing trip generating characteristics of permanent and transient residential units as well as single-family units, accessory

apartment units and multi-family residential units. ~~The annual allocation shall be ninety one units (91) single family units based on the Transportation Interface for Modeling Evacuations (TIME) Model.~~ The permit allocation system shall incorporate a series of equivalent single-family unit (ESFU) values in applying the ~~annual~~ permit allocation threshold established in the building permit allocation ordinance as hereinafter explained.

**Table 1-1.16.3**

Residential Structure Type	Equivalent Single-Family Unit Value (ESFU) <sup>(1)</sup>
Single Family	1.00 <sup>(a)</sup>
Accessory Apt./SRO	.78 <sup>(b)</sup>
Multi Family	1.00 <sup>(c)</sup>
Transient Unit	.86 <sup>(d)</sup>

(1) *The equivalent single family unit values are predicated on the ratio of the average number of vehicles per unit based on the 2010 US Census for the respective residential structure types divided by the vehicles per single family units (i.e., 1.28 vehicles per unit). The computations are as follows:*

(a) *Single Family*  $1.28/1.28 = 1.00$

(b) *Accessory Apt. or Single Room Occupancy (SRO):*  $1.00/1.28 = .78$ . *The former Fl. Department of Community Affairs (now Department of Economic Opportunity) approved the*

*estimated average vehicles per accessory unit or single room occupancy (SRO) as one (1) vehicle per accessory unit or SRO.*

*(c) Multi-Family: 1.28/1.28 = 1.00*

*(d) Transient Unit: 1.10/1.28 = .86 (based on the Hurricane Evacuation Study 1.10 vehicles per transient unit in Monroe County)*

\* \* \* \* \*

**Policy 1-1.16.5: Transfer of Building Permit Allocations**

By resolution the City of Key West may transfer building permit allocations to areas beyond the City limits for the development of Affordable Workforce Housing in close proximity to the City of Key West such that the anticipated residents could reasonably be expected to contribute to the workforce of the City of Key West.

Upon adoption of this Comprehensive Plan Amendment the City of Key West shall transfer 104 previously unallocated units to the Affordable Housing Development described as "THE QUARRY" located in the Big Coppitt Mixed Use Area 1, at approximate mile marker 9, Monroe County Florida. This shall be done pursuant to an ~~Interlocal~~ Agreement between the City of Key West, The Department of Economic Opportunity, ~~and~~ Monroe County and appropriate local governments with the concurrence of Quarry Partners LLC, the owner of the property. The Agreement shall be prepared pursuant to Section 380 Florida Statutes. ~~shall require, and~~ Quarry Partners LLC shall

provide, recorded Declarations of Affordable Housing Restrictions for these units acceptable to the City of Key West and Monroe County prior to the issuance of certificates of occupancy by Monroe County. In the event building permits to construct "The Quarry" affordable housing project are not issued on or before June 30, 2019 these units shall be released to Monroe County and shall only be re-allocated for Affordable Housing purposes south of Mile Marker 26 on U.S. 1.

The units transferred under this policy shall be considered as contributing to the 50% minimum affordable housing allocation of Policy 1-1.16.1.

Section 2: That Chapter 2 of the Comprehensive Plan is hereby amended as follows

\* \* \* \* \*

Policy 2-16.4 2-1.6.4 Transportation Concurrency Exception Area.

~~As a result of the State mandated hurricane evacuation modeling workshops and amendments to the Comprehensive Plan, the City will be allocated 91 new PBAS units annually starting in 2013.~~

Between years 2013 and 2023 The City of Key West shall allocate a total of 910 BPAS units. Due to the City's exception from transportation concurrency, the development or redevelopment



of these units shall not be subject to roadway concurrency requirements.

\* \* \* \* \*

**Section 3:** That Chapter 3 of the Comprehensive Plan is hereby amended as follows:

\* \* \* \* \*

**Policy 3-1.1.4: Building Permit Allocation System.**

The City of Key West shall ~~annually allocate 91 building permits per year between 2013 and 2023, for~~ a total of 910 permits between years 2013 and 2023. In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013 - July 2016) 60 percent of the units allocated shall be affordable. Between years four (4) and 10 (2016 - 2023), a minimum of 50% of the total allocations shall be affordable. ~~Between years four (4) and 10, 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient.~~ Between years four (4) and ten (10), no more than 10 percent may be transient. During Year One (1) (July 2013 - 2014), 48 of the affordable units to be allocated will be in the transfer of Peary Court from military to private sector housing, which leaves 43 units to be allocated from the first allocation pool.

\* \* \* \* \*

Section 4: 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 provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: 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 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this 6 day of June, 2017.

Read and passed on final reading at a regular meeting held this 17 day of October, 2017.

Authenticated by the presiding officer and Clerk of the  
Commission on 18 day of October, 2017.

Filed with the Clerk October 18, 2017.

Mayor Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Absent</u>

  
CRAIG CATES, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK



**THE CITY OF KEY WEST  
CITY ATTORNEY'S OFFICE  
Report**

**To:** Chairman and Planning Board Members

**From:** George B. Wallace, Assistant City Attorney

**Sponsor:** James Scholl, City Manager

**Meeting Date:** May 18, 2017

**Agenda Item: AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 1 OF THE COMPREHENSIVE PLAN ENTITLED "FUTURE LAND USE ELEMENT" BY AMENDING POLICY 1-1.16.1, ENTITLED "MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE," AMENDING POLICY 1-1.16.2, ENTITLED "BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING," AMENDING POLICY 1-1.16.3, ENTITLED "PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE," AND BY ADDING POLICY 1-1.16.5 ENTITLED "TRANSFER OF BUILDING PERMIT ALLOCATIONS;" BY AMENDING CHAPTER 2 ENTITLED "TRANSPORTATION ELEMENT," BY AMENDING POLICY 2.16.4 TO PROPERLY REFLECT AS POLICY 2-1.6.4, AND REVISING THE REFERENCE TO THE NUMBER OF ALLOCATED UNITS; AMENDING CHAPTER 3 OF THE COMPREHENSIVE PLAN ENTITLED "HOUSING," BY AMENDING POLICY 3-1.1.4, ENTITLED "BUILDING PERMIT ALLOCATION SYSTEM;" PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE**

**Action Item / Background**

The current Comprehensive Plan for the City of Key West was approved in 2013. Subsequent to the approval of the current Comprehensive Plan the need for the City to be able to award BPAS units beyond the City limits in order to promote affordable housing projects which would directly benefit the workforce of the City has become apparent.

Currently the only mechanism in place which authorizes the City to distribute its BPAS units beyond the City limits is restricted to units which are awarded but for which no building permit is issued within two years of the date of the award. Under the current Land Development Regulations and Comprehensive Plan these units are then recovered by the City for re-allocation the next BPAS allocation year. In the event the recovered units are not re-allocated the next BPAS year the units are to be returned to the Department of Economic Opportunity for redistribution.

The proposed Amendments to Policies 1-1.16.1, 2-1.6.4, 1-1.16.3 and 3-1.1.4 eliminate the requirement that the City allocate 91 units annually and authorize the city to allocate its cumulative total approved allocations over the planning horizon which expires on July 1, 2023. This in turn will allow the City to better plan for affordable housing projects within the City such as the proposed development of college road and other projects. The amendment to Policy 3-1.1.4 reduces the percentage of transient unit allocations to ten (10%) of all allocations through July 1, 2013.

The proposed Amendment to Policy 1-1.16.2 would require that a minimum of fifty (50%) of all BPAS units awarded through July 1, 2023 be for affordable housing.

The proposed Comprehensive Plan amendment creating Policy 1-1.16.5 would create a mechanism for the City to transfer BPAS units beyond the City limits by Commission Resolution. The amendment would also operate as a one-time transfer of 104 previously un-allocated BPAS units to Monroe County for allocation and use at the workforce housing project known as "The Quarry" located on Rockland Key. These units would revert to the City if no building permit or permits are obtained to construct the project by June 30, 2018.

The City Attorney's office recommends that the Planning Board recommend **approval** of the draft amendment to Policies 1-1.16.1, 1-1.16.2, 1-1.16.3, 2.16.4, 3-1.1.4, and adding 1-1.16.5 titled "Transfer of Building Permit Allocations.