

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 OF THE LAND DEVELOPMENT REGULATIONS, ARTICLE X "BUILDING PERMIT ALLOCATION SYSTEM", SECTION 108-995. - REPORTING REQUIREMENTS AND RESIDENTIAL ALLOCATION SCHEDULE, TO PROVIDE FOR AN EXTENSION OF THE BUILDING PERMIT ALLOCATION SYSTEM AWARD PERIOD TO ALLOW FOR THE DISTRIBUTION OF UNALLOCATED UNITS AFTER JUNE 20, 2023; PROVIDING FOR CONCURRENT AND CONDITIONAL ADOPTION UPON ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, new residential development in the City of Key West is strictly controlled by the State of Florida, which has designated the City as an Area of Critical State Concern; and

WHEREAS, the City regulates residential development through the Building Permit Allocation System (BPAS); and

WHEREAS, the Comprehensive Plan and City Land Development Regulations provide for the allocation of BPAS units between 2013 and 2023; and

WHEREAS, it is in the best interest of the City to utilize all available BPAS units, which may include allocating units after 2023; and

WHEREAS, the Planning Board held a noticed public hearing on September 15, 2022, where based on the consideration of recommendations by the city planner and other information, the Board recommended approval of the proposed amendments with one modification through Planning Board Resolution 2022-047; and

WHEREAS, the Planning Board recommended approval to extend the BPAS and require 75% of any remaining unit allocations after Year 10 to be deed restricted affordable, but to allow up to 25% of future unit allocations during any one yearly cycle to be for market rate units in order to balance the need to promote workforce housing with the flexibility to develop mixed income projects; and

WHEREAS, the City of Key West finds that it is necessary to amend the Land Development Regulations Section 86-9, entitled "Definition of terms", and Section 108-995 entitled "Reporting requirements and residential allocation schedule" to allow for the allocation of BPAS units after 2023; and

WHEREAS, an amendment to Section 86-9 and Section 108-995 of the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

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

Section 1: That Section 86-9 of the Code of Ordinances is hereby added/amended as follows*:

[. . .]

Section 86-9. Definition of terms.

Allocation application means the permanent ~~and/or transient~~ residential building permit allocation application submitted by a property owner seeking a unit allocation award.

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

Allocation award year or award year means the calendar year in which a final determination of allocation award is made, and is the year immediately following the application year. The first award year is 2014, and shall continue until ~~2024~~ all residential building permit units have been allocated or until ~~unless~~ amended or extended by an appropriate action of the city commission.

Section 2: That Section 108-995 of the Code of Ordinances is hereby added/amended as follows:

Sec. 108-995. Reporting requirements and residential allocation schedule.

The City of Key West building permit allocation system shall limit the number of permits issued for new permanent development, to 910 units ~~during the period from July 2013 to July 2023~~, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The Building Permit Allocation System shall operate on an annual basis in accordance with Section 108-997. The first allocation cycle is July 2013 through June 2014. Annual allocation cycles shall continue until all units have been allocated. Additionally, the Building Permit Allocation System shall be utilized in the event of an increase in available Building Permit Allocation System units.

The annual allocation will not exceed ninety-one (91) single-family units or equivalent types of units based on the equivalency factors established in policy 1-1.16.3 of the comprehensive plan. The annual allocation limitation shall not apply to affordable housing allocations. No transient allocations will be made subsequent to the closure of the 2017-2018 allocation period.

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 ten (10)

(2016–2023), a minimum of 50 percent of the total allocations shall be affordable.

Between years four (4) and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. Between years six (6) and ten (10), 100 percent of the units shall be permanent. After year ten (10), 75 percent of units shall be deed restricted affordable, including any units recovered by the City due to failure to obtain building permits within two years of a BPAS award, per Section 108-997(e), or otherwise voluntarily released to the City.

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, and shall meet the prerequisite standards for obtaining BPAS awards.

During year nine (9) (July 2021–2022), 128 of the units to be allocated will be dedicated for use at the property currently known as the 3.2 development located in Bahama Village and shall meet the prerequisite standards for obtaining BPAS awards.

Table 2.0 below identifies ~~the~~ allocated units at a rate of 1.0 ESFU's for the period from July 2013 to July 2023 ~~number of by~~

housing 2023. As noted above, allocations shall continue after July 2023 but only 25% of units allocated during any one BPAS cycle year can be market rate. Deed restricted affordable allocations shall not have maximum annual allocation limits.

Table 2.0									
July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023
48 affordable units to be allocated for Peary Court development. Minimum of 7 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	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 market rate units.	Minimum of 0.4 affordable units. Maximum of 46 market rate units.

The city planner will provide an annual report to the planning board and the state land planning agency identifying any remaining or unused allocations, and the number of permits by building type

by September 1 of each year as stipulated in the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding. The first report will be published in 2014.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-11, § 3, 4, 6-5-2018; Ord. No. 22-06, § 1, 2-15-2022)

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 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 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 on first reading at a regular meeting held
this _____ day of _____, 2022.

Read and passed on final reading at a regular meeting held
this _____ day of _____, 2022.

Authenticated by the presiding officer and Clerk of the
Commission on _____ day of _____, 2022.

Filed with the Clerk _____, 2022.

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

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK