

**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**



**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Alison Higgins, Resiliency Manager

**Meeting Date:** May 29, 2025

**Application:** **\*Text Amendment of the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission to amend Land Development Regulations amending chapter 110 of the code of ordinances entitled "resource protection", article iii entitled "environmental resources", establishing division 5, entitled "green building"; establishing requirements for green building certification as a requirement during zoning review of new projects; establishing a green building fee program for projects that do not achieve the required green building certification level, authorizing property owners and developers to pay a green building fee, or in the alternative, post a bond for the project into the city's adaptation and sustainability fund, which bond or funds are reimbursable to the property owner or developer pursuant to the level of green building compliance achieved by the project; designating the Adaptation and Sustainability Fund (Fund 108) for the deposit of the green building fees generated through the green building program, and providing the uses for which the fees can be used; providing for severability; providing for an effective date.

**Request:** The text amendment would create a Green Building Certification standard for all building permits similar to what the City's BPAS has had in place for residential units for over a decade. The biggest difference is while BPAS has no teeth for compliance, the Green Building Program would enact a financial incentive, which if not utilized, funds other adaptation and sustainability projects throughout the community, much like Art In Public Places.

**Sponsor:** City Manager

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**Background**

City of Key West Resiliency staff have developed this draft ordinance to establish a Green Building Program, to include regulations and procedures that will help the City as well as businesses and residents become more resilient. The program will also identify a revenue source for key improvements that reduces financial requirements from the City's general fund.

To research this proposal, staff met with the City Attorney at Boynton Beach, who was the creator of the first known Green Building Program of this type in the State of Florida. Their program has been in effect for 14 years (2011) and collects a five hundredths of a percent (0.05%) fee based upon the valuation on all building permits.

There are no rebate options for certification, but the funds are allocated for public energy, water, and recycling rebates as well as City transportation stormwater projects, education efforts and staff salaries. The program nets approximately \$150,000 per year.

Staff also met with the City of Miami Beach, who are the most recent adopters of a similar Green Building Program. Their program was enacted 9 years ago (2016) and collects a five percent (5%) fee for all new construction larger than 7,000 square feet, or ground floor additions to existing structures that encompass over 10,000 square feet of additional area. Projects have 2 years to request reimbursement based on their level of green certification achieved. Unremitted funds are allocated for environmental restoration/remediation and monitoring projects; stormwater improvements; and sustainability planning efforts.

Staff also researched the City of Miami Sustainability Ordinance, which requires buildings of more than 50,000 square feet in certain areas to be Silver certified and collects a two to four percent (2-4%) fee depending on the size of the building. Uncollected funds are placed in the Miami 21 Public Benefits Trust Fund which can be used for affordable housing green building, parks and public spaces, historic preservation, brownfields, and civic support.

#### **Land Development Regulations Text Amendment Process:**

Planning Board Meeting:	May 15, 2025
City Commission (1st Reading):	TBD
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

#### **Review Criteria**

Per Section 90-520, applications for a text amendment to the land development regulations shall evaluate the following:

Review Criteria	Staff Analysis
<i>Justification. The need and justification for the proposed change shall be stated:</i>	Florida Building Code represents the minimum safety and efficiency standards. Green Building Certification reduces monthly utility costs and sets stronger resiliency standards which may reduce annual insurance costs.
<i>Comprehensive plan consistency. Identifying impacts of the proposed change in zoning on the comprehensive plan. The zoning must be consistent with the comprehensive plan.</i>	The proposed amendment is consistent with the goals, policies, and objectives of the comprehensive plan. <ul style="list-style-type: none"> <li>• Policy 1-11.1.16: “Enact Resilient Standards” [that] “incentivize property owners to elevate structures, select materials, and adopt techniques in order to minimize risk to wind, flood, and storm surge damages.</li> <li>• Policy 1-11.1.14: “consider proactive steps and pilot programs to adapt for sea level rise and storm surges”</li> <li>• Obj 4-2.6: “utilize best management practices in efficiencies and conservation as a mandatory step in meeting projected demands”</li> </ul>

<i>Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Potential land use incompatibility and impacts on infrastructure shall be identified.</i>	The proposed amendment will increase the resiliency and decrease the utility costs not only individual properties that choose to take advantage of the rebate, but also the City-wide infrastructure when participants do not take advantage of the rebate.
<i>Avoidance of spot zoning. The proposed change shall not constitute a spot zone change.</i>	The proposed amendment is not specific to a single parcel. The proposed action is consistent with the comprehensive plan as noted above.
<i>Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.</i>	This proposed amendment is not associated with a particular Comprehensive Plan Future Land Use designation or specific zoning district.

### **Analysis:**

According to the U.S. Environmental Protection Agency (EPA), existing buildings are one of the biggest contributors to environmental pollution in the U.S., accounting for 40 percent of total energy use, 72 percent electricity consumption, 39 percent of the carbon dioxide emissions, and 13 percent of total water consumption.

The Florida Green Building Coalition (FGBC) has developed a green building rating system to address design and construction activities to improve the efficiency, sustainability and resiliency of residential and commercial buildings. Green certified buildings save money and resources and have a positive impact on the health of occupants and stability of the building.

Green Building Certification promotes efficient design, construction, operation, maintenance and deconstruction of buildings and site development. The green building provisions are designed to achieve the following objectives:

- 1) Increase energy efficiency in buildings;
- 2) Encourage water and resource conservation;
- 3) Reduce waste generated by construction projects;
- 4) Reduce long-term building operating and maintenance costs;
- 5) Improve indoor air quality and occupant health;
- 6) Reduce risk from severe weather,

During the 2024 election referendum votes, the residents of the City of Key West signaled their support for Resiliency projects by passing the “Infrastructure Adaptations Related to Weather/Flooding” Bond at 68.7%, higher than the other 3 Bonds that were also on the ballot that year.

The Key West Strategic Plan surveyed just under 4,000 residents to assess their priorities. Affordable Housing, Sea Level Rise and Environmental Protection ranked 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup>, respectively. The Green Building Program addresses action items across all three priorities.

The US Army Corps of Engineers (USACE) completed a Florida Keys Coastal Risk Mitigation Feasibility Study in 2022 and identified 2,028 residences, 382 commercial buildings and 12 critical infrastructure sites in Key West in need of elevation or floodproofing.

The City recently completed a Vulnerability Assessment of our islands and designated 11 hotspots with 408 at-risk critical assets in need of resiliency upgrades. An Adaptation Plan will follow in November of this year, outlining priority projects citywide, with budgets and potential grants. Even with grants assisting, these critical projects will need City funds to complete.

#### Green Building Fee Program

In order to achieve resilient building standards, the proposed ordinance requires payment of a Green Building Fee. This fee would be paid at time of permit application for projects not needing any Certificates of Occupancy, or when applying for a Certificate of Occupancy (CO). This fee is proposed as two percent (2%) of the construction valuation, based on average costs to achieve Gold Certification (2.2%).

The proposed ordinance provides for refunds of the fee based upon the level of green building certification achieved. The participant is required to obtain green building certification within six months of obtaining a Certificate of Occupancy (CO), with the possibility of a one-time six-month extension, in order to obtain the refund. The level of the refund is detailed in the following table.

Certification Compliance Schedule:

Level of Certification Achieved	Green Building Fee Reimbursement to Participant for Meeting Certain Green Building Certification Levels
Failure to obtain Certification	0% refund of payment or bond
LEED Certified Or FGBC Bronze	50% refund of payment or bond
LEED Silver or FGBC Silver	75% refund of payment or bond
LEED Gold or FGBC Gold	100% refund of payment or bond
LEED Platinum or FGBC Platinum	100% refund of payment or bond

After the 6-month period has ended, a property owner can submit at any time, proof of achieving a Green Certification and receive a flat fee rebate, which is based on cost of applying for and receiving the Certification. This will provide an incentive and an opportunity for properties that may have only completed a small building permit project to still benefit from the new program.

Post Deadline Flat Fee Rebates:

Level of Certification Achieved	Green Building Fee Payment to Participant for Meeting Certain Green Building Certification Levels
All levels of FGBC Certifications	\$3,500

#### Value to Property Owner

Even without reimbursement, investing in a Green Certification has a strong business case. According to studies, on average, a green certified property is valued at 2.9% higher, rents at 31% percent higher, raises cognition scores of its employees by 26% and costs 12% less to maintain. Specifically, the Tier achieved also affects a property owners bottom line via energy and water savings, as shown in the table below.

LEED Certification	Additional Cost to Build*	Program Reimbursement	Annual Efficiency Savings
Certified	1% above code	50%	20%
Silver	1.9%	75%	25%
Gold	2.2%	100%	30%
Platinum	5%	100%	40%

*\* Based on U.S. Green Building Council studies. Costs for FGBC are less.*

Applying the table above to an actual new 1,500 square foot residence in New Town, the table below shows the possibilities available based on certification level achieved:

<b>LEED Certification</b>	<b>Additional Cost to Build</b>	<b>Program Reimbursement</b>	<b>Annual Efficiency Savings</b>
Certified	\$3,307	\$3,286	\$237
Silver	\$6,283	\$4,929	\$296
Gold	\$7,275	\$6,572	\$355
Platinum	\$16,535	\$6,572	\$474

None of these numbers take into consideration additional insurance savings.

### Equity Measures

The Green Building Program was presented to the City Commission in June of 2024. There were concerns from the Commission regarding the equity of this mandate, across both smaller projects and large affordable projects that might find the green certification mandate costly to acquire. An analysis of all building permits across Fiscal Years 2022 and 2023 showed that ~80% of permits were for less than \$25,000. Therefore, in the ordinance, the fee for projects less than 25,000 is halved and set as a one-half percent (.5%) of the construction valuation. Applied to the FY23 building permits, this fee averaged \$40.00 with a max of \$125.00.

For residential projects that provide one hundred percent (100%) affordable housing units (as defined by either the US Housing and Urban Development office or State of Florida) or workforce housing (as defined by the City of Key West) or homesteaded (as defined by the State of Florida), the fees are waived entirely.

Lastly, the anytime, \$3,500 flat-fee rebate allows for residents and businesses that have been slowly working towards a more efficient and resilient building to receive funds outside the 6-month compliance window. This reimbursement does not count fees paid over time, but does account for the cost of applying for and receiving certification at any level.

### Sustainability and Adaptation Fund

The fees collected as part of this program will be held until the deadline of 6 months for reimbursement or extension has passed. Once funds are declared unremitted, these funds will be deposited into the existing Adaptation and Sustainability Fund. Expenditure of these funds shall follow City procurement rules (City Ordinances, Chapter 2, Article VII). Proposed uses of these funds will be used to include improvements that increase the resiliency of the City such as:

- 1) Energy and water efficiency projects
- 2) Wind mitigation projects
- 3) Flood mitigation projects
- 4) Environmental restoration projects
- 5) Green infrastructure projects
- 6) Stormwater quality and quantity improvements
- 7) Adaptation and sustainability planning and policy efforts
- 8) Staff to administer the above

Specific examples of projects the Sustainability and Adaptation Fund could fund include efficiency projects to reduce the City's current \$2,500,000 annual utility bill, resiliency projects to reduce wind and flood insurance across our 100 City buildings, and stormwater projects within our lowest neighborhoods.

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that this request to amend the Land Development Regulations be recommended for **APPROVAL** to the City Commission.