

**PLANNING BOARD  
RESOLUTION NO. 2019-18**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD RECOMMENDING AN ORDINANCE TO THE CITY COMMISSION 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 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”; and

**WHEREAS**, a prerequisite for major construction/renovation projects to be eligible to receive an allocation award from the BPAS system is all new buildings shall be constructed with a rainwater catchment system; and

**WHEREAS**, the rainwater catchment system shall 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**, new residential buildings can be an affordable deed-restricted accessory unit with 300-square-feet of roof area; and

**WHEREAS**, a rainwater catchment system purchase and installation requirement may cause unnecessary and undue substantial financial hardship on an affordable housing project; and

**WHEREAS**, this proposed amendment to the Land Development Regulations was presented to the Planning Board with a recommendation of approval at its regularly scheduled meeting on March 21, 2019; and

**WHEREAS**, the Planning Board finds that it is in the public's interest to amend the City's Land Development Regulations, by removing the prerequisite to major construction/renovation that requires all new buildings be constructed with a rainwater catchment system; and

**NOW, THEREFORE BE IT RESOLVED by the Planning Board of 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 the proposed amendment to Chapter 86 and Chapter 122 of the Land Development Regulations is recommended for approval; the changes are as follows:\*

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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.~~

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.~~

(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.
  - l. Constructing 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: 10 points. 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.

- (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)

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

**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the city clerk.

**Section 4.** This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty-five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty-five (45) day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the

effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regular meeting held this 21st day of March 2019.

Authenticated by the Chair of the Planning Board and the Planning Director.

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Sam Holland, Planning Board Chair

Date

**Attest:**

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Patrick Wright, Planning Director

Date

**Filed with the Clerk:**

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Cheryl Smith, City Clerk

Date