ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, TO AMEND CHAPTER 122 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED "ZONING", ARTICLE V ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 10 ENTITLED "WORK FORCE HOUSING" PURSUANT TO SECTION 90-518 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA. THE AMENDMENT WOULD MODIFY SECTION 122-1466, ENTITLED "DEFINITIONS" BY AMENDING THE DEFINITIONS OF TERMS RELATED TO AFFORDABILITY, HOUSEHOLD INCOME CATEGORIES, AFFORDABLE UNIT CATEGORIES, FAMILY SIZE, DEVELOPMENT, AND REMOVING A DEFINITION FOR REDEVELOPMENT. THE AMENDMENT WOULD MODIFY SECTION 122-1467, ENTITLED "REQUIREMENTS OF AFFORDABLE WORK FORCE HOUSING", INCLUDING AMENDMENTS TO REMOVE WORKFORCE HOUSING REQUIREMENTS FOR REDEVELOPMENT PROJECTS, MODIFY LINKAGE PROVISIONS, EXPAND THE GEOGRAPHICAL AREA WHERE LINKAGES ARE PERMITTED, INCREASE FEES-IN-LIEU, MODIFY PROVISIONS REGARDING THE TYPE OF AFFORDABLE UNITS THAT ARE REQUIRED FOR NEW DEVELOPMENT PROJECTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 90-518 of the Land Development Regulations, a private applicant has submitted a draft ordinance to modify substantive portions of Chapter 122, Article, V, Division 10, known as the Workforce Housing Ordinance; and

WHEREAS, the Planning Board requested that this applicant's proposed code amendment be separated in order to allow for

additional public review and input through Town Hall meetings; and

WHEREAS, the Planning Board reviewed the first two sections of the "workforce housing ordinance" amendments considering both applicant proposals and staff recommendations and ultimately recommended approval of a version of the staff's draft ordinance with substantive changes suggested by the private applicant; and

WHEREAS, the definitions related to workforce housing in the current land development regulations are often in conflict with Federal and State regulations; and

WHEREAS, the conflict with Federal and State regulations has created issues when housing projects in the City of Key West are receiving Federal and State funding; and

WHEREAS, the affordable workforce housing requirements related to residential development in the current land development regulations contain instances of ambiguity; and

WHEREAS, the applicant has suggested that affordable housing requirements for the redevelopment of existing housing disincentivizes the improvement of residential properties in the City of Key West; and

WHEREAS, amending the land development regulations to align with Federal and State regulations and to encourage redevelopment of aging housing units will increase and improve the housing

stock for Key West residents; and

WHEREAS, in accordance with Section 90-522, the Planning Board held a noticed public hearing on February 20, 2025, where based on the consideration of recommendations of the city planner, city attorney, building official and other information submitted at the scheduled public hearing, the Board recommended approval of the proposed amendments through Planning Board Resolution 2025-013; and

WHEREAS, the City Commission has determined, in accordance with the criteria of Code Section 90-520(6) that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

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

Section 1: That Chapter 122 of the Land Development

Regulations, entitled "Zoning", Article V. entitled "Supplementary District Regulations", Division 10 Entitled "Work Force Housing", are hereby amended as follows*:

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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.)

Sec. 122-1466. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Affordable housing* shall be defined as provided in the following classifications:~~

~~*Affordable housing (very low income) for a rental dwelling unit* shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 60 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, affordable housing (very low income) shall mean a dwelling unit whose sales price shall not exceed one and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.~~

~~*Affordable housing (low income) for a rental dwelling unit* shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 80 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, affordable housing (low income) shall mean a dwelling unit whose sales price shall not exceed two and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.~~

~~*Affordable housing (median income) for a rental dwelling unit* shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 100 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (median income) shall mean a dwelling unit whose sales price shall not exceed three and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472. The definition of "affordable housing (median income)" applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.~~

~~*Affordable housing (middle income) for a rental dwelling unit* shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 140 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (middle income) shall mean a dwelling unit whose sales price shall not exceed six and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.~~

~~*Affordable housing (moderate income) for a rental dwelling unit* shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 120 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (moderate income) shall mean a dwelling unit whose sales price shall not exceed five times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.~~

(1) "Adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households

with more than four people, than the base income eligibility determined as provided in subsection (9), subsection (11), subsection (12), subsection (13), or subsection (14), based upon a formula as established by the United States Department of Housing and Urban Development and in accordance with Section 122-1472.

(2) "Affordable" means that monthly rents or mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in subsection (9), subsection (11), subsection (12), subsection (13), or subsection (14), adjusted for family size and in accordance with Section 122-1472. However, it is not the intent to limit an individual household's ability to devote more than 30% of its income for housing, and housing for which a household devotes more than 30% of its income shall be deemed Affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size.

(3) "Affordable work force housing units" shall include dwelling units for rent or purchase by "very low income households", "low income households", "median income

households", "moderate income households" and "middle income households" as defined in ~~ing.~~ subsection (9), subsection (11), subsection (12), subsection (13), and subsection (14) who earn at least 70% of their income in Monroe County or are retired from earning at least 70% of their income in Monroe County.

(4) "Affordable work force housing trust fund" shall mean the trust fund established and maintained by the city for revenues from fees in lieu of constructing affordable work force housing, and revenues from any other source earmarked for the trust fund by land development regulation, ordinance or donation.

(5) "Annual gross income" means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census. Income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

(6) "Household Income" means all amounts, monetary or not, which 1) go to the or on behalf of the family head or spouse or on behalf of the family head or spouse (even if temporarily absent) or to any other family member; or 2) are anticipated to

be received from sources outside the family during the 12-month period.

(7) " Median Family Income" (MFI) refers to the annual Median Family Income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.

(8) "**Development ~~or redevelopment~~**" for purposes of this section, shall mean any site alteration that increases ~~development that increases the size of a unit(s)~~, the number of dwelling units onsite, or the need for additional affordable workforce housing as evidenced by additional services or intensity.

(9) "Low-income person" or "low-income household" means one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the HUD median family income adjusted for family size for Monroe County. With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. With respect to homeownership units, the median-income household's annual income at the time of sale may not exceed 80 percent of the area's median income adjusted for family size.

(10) "Maximum sales price, owner-occupied affordable housing unit" means a price not exceeding 3.75 times the annual median household income for Monroe County for a one-bedroom or efficiency unit, 4.25 times the annual median household income for Monroe County for a two-bedroom unit, and 4.75 times the annual median household income for Monroe County for a three or more bedroom unit.

(11) "Median-income person" or "median-income household" means one or more natural persons or a family that has a total annual gross household income that does not exceed 100 percent of the HUD median family income adjusted for family size for Monroe County. With respect to rental units, the median-income household's annual income at the time of initial occupancy may not exceed 100 percent of the area's median income adjusted for family size. With respect to homeownership units, the median-income household's annual income at the time of sale may not exceed 100 percent of the area's median income adjusted for family size. The definition of "median income" in reference to affordable housing, applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.

(12) "Middle-income person" or "middle-income household" means one or more natural persons or a family that has a total

annual gross household income that does not exceed 160 percent of the HUD median family income adjusted for family size for Monroe County. With respect to rental units, the middle-income household's annual income at the time of initial occupancy may not exceed 160 percent of the area's median income adjusted for family size. With respect to homeownership units, the middle-income household's annual income at the time of sale may not exceed 160 percent of the area's median income adjusted for family size.

(13) "Moderate-income person" or "moderate-income household" means one or more natural persons or a family that has a total annual gross household income that does not exceed 120 percent of the HUD median family income adjusted for family size for Monroe County. With respect to rental units, the moderate-income household's annual income at the time of initial occupancy may not exceed 120 percent of the area's median income adjusted for family size. With respect to homeownership units, the moderate-income household's annual income at the time of sale may not exceed 120 percent of the area's median income adjusted for family size.

(14) "Very-low-income person" or "very-low-income household" means one or more natural persons or a family that has a total

annual adjusted gross household income of which does not exceed 50 percent of the HUD median family income adjusted for family size for Monroe County, With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 50 percent of the area's median income adjusted for family size. With respect to homeownership units, the median-income household's annual income at the time of sale may not exceed 50 percent of the area's median income adjusted for family size.

~~*Median household income* shall mean the median household income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.~~

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 3, 10-18-2005; Ord. No. 17-09, § 1, 8-16-2017; Ord. No. 18-13, § 2, 7-3-2018; Ord. No. 19-11, § 2, 5-7-2019; Ord. No. 21-09, § 1, 3-2-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 122-1467. ~~Requirements of affordable work force housing.~~ Residential Inclusionary Housing Requirements.

(1) ~~(a)~~ *~~H~~New housing units.* ~~At least ten percent of all units developed or redeveloped each year shall be low income affordable housing of at least 400 square feet each,~~

~~as defined herein and 20 percent shall be affordable housing (median income) housing of at least 400 square feet each, as defined herein.~~ ~~Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop or redevelop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be $200,000.00 (representing construction cost, less land cost, of a 400 square foot unit). The 30 percent affordability requirement shall be determined on a project by project basis and not on a city-wide basis. Vested units shall be subject to this subsection if not otherwise governed by law or agreement. For every required affordable housing (median income) unit, a developer may increase the sales or rental rates to affordable housing (middle income) so long as another unit's sales or rental rate is decreased to affordable housing (low income).~~ At least thirty percent of all new housing or dwelling units developed in any residential or mixed-use project, including lock-out units, transient living accommodations and transient lodging, or any combination of such units, shall be deed restricted affordable with income eligibility and maximum rental rates

as described in subsections (a) and (b) of this subsection. No required deed restricted unit shall be less than 400 square feet.

(a) For projects including ten or more new housing units. For the thirty percent of units that are required to be deed restricted pursuant to subsection (1) of this section, the following is required:

1. For all efficiency and one-bedroom units, the units shall be reserved for "median-income households" and shall have maximum rental rates not to exceed rental rates for "median-income households."
2. For all units with two or more bedrooms, units shall be reserved for "middle-income households" and shall have maximum rental rates not to exceed rental rates for "moderate-income households".

(b) For projects including nine or fewer new housing units: For the thirty percent of units that are required to be deed restricted pursuant to subsection (1) of this section, units shall be reserved for "middle-income households" that meet applicant eligibility in Section 122-1469.

(2) For each housing unit that is required to be deed restricted affordable pursuant to subsection~~s~~ (1) ~~and (2)~~ of

this section, a developer ~~but~~ may contribute a fee in lieu to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be $~~2~~400,000.00 (representing construction cost, less land cost, of a 400 square foot unit) or the current maximum sales price for a two-bedroom affordable unit as established under Section 122-1466 (11), whichever is higher. The fee shall be paid prior to issuance of the building permit associated with the market rate or mixed use project.

(3) The 30 percent affordability requirement shall be determined on a project by project basis and not on a city-wide basis. Vested units shall be subject to this subsection if not otherwise governed by law or agreement.

(4) *Linkage of projects.* Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the City Manager or their designee and shall be approved by the City Commission at the time of the first site plan approval. The project containing the affordable

units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. The affordable units proposed to satisfy the inclusionary housing requirement may not have received certificates of occupancy three (3) years prior to the project approval for the development triggering the inclusionary housing requirement. In addition, if a developer voluntarily builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement but in no instance shall preexisting deed restricted affordable units be credited retrospectively. Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site ~~within the city and on a site on Stock Island in the unincorporated part of the county~~ west of the Shark Key bridge.

~~(c) *Affordable work force housing.* The maximum total rental and/or sales price for all affordable work force housing units in a single development shall be based on each unit being~~

~~affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).~~

(5~~d~~) *Demonstration of continuing affordability.* Demonstration of continuing affordability shall be by deed restriction or any other mutually acceptable method that effectively runs with the land and is binding on owners, successors in ownership, or assigns. The deed restriction shall be in a form provided by the city and shall be for a period of 99 ~~at least 50~~ years. It shall be recorded in the county records. ~~During the final year of the deed restriction, the city commission may act by Resolution to renew the affordability restriction for an additional 50-year term.~~

(6~~e~~) *Reporting requirements.* Owners of affordable work force housing projects or units shall furnish the city manager or their ~~his~~ designee with annual information necessary to ensure continued compliance with affordability criteria, beginning one year after the date of building permit issuance and on each anniversary date thereafter. Reporting requirements shall include verification of ~~sworn~~ tenant household income

~~verification~~ and leasing information. ~~Property owners subject to this subsection may contract with the Key West Housing Authority to perform annual tenant eligibility verification.~~

(7~~f~~) *Compliance with antidiscrimination policy.* All property owners offering housing under this division shall comply with the antidiscrimination policy of article II of chapter 38.

(8) *Enforcement.* The City of Key West shall enforce all provisions of this division to the fullest extent of the law and may establish fines or other penalties by resolution.

(9~~2~~) *Exemptions and waivers.*

(a) The following uses shall be exempt from the inclusionary housing requirements set forth in subsection (1)(a) of this section: affordable workforce housing, nursing homes, or assisted care living facilities.

(b) The city commission may reduce, adjust, or waive the requirements set forth in this subsection where, based on specific findings of fact, the commission concludes, with respect to any developer or property owner, that:

1. Strict application of the requirements would produce a result inconsistent with the comprehensive plan or the purpose and intent of this subsection;

2. Due to the nature of the proposed development, the development furthers comprehensive plan policies and the purpose and intent of this subsection through means other than strict compliance with the requirements set forth herein;

3. The developer or property owner demonstrates an absence of any reasonable relationship between the impact of the proposed development and requirements of this subsection (b); or

4. The strict application with the requirements set forth herein would improperly deprive or deny the developer or property owner of constitutional or statutory rights.

(c) Any developer or property owner who believes that he may be eligible for relief from the strict application of this section may petition the city commission for relief under this subsection (b)(3) of this section. Any petitioner for relief hereunder shall provide evidentiary and legal justification for any reduction, adjustment or waiver of any requirements under this section.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 4, 10-18-2005; Ord. No. 19-11, § 2, 5-7-2019)

Editor's note(s)—Ord. No. 19-11, § 2, adopted May 7, 2019, amended § 122-1467 and in doing so changed the title of said section from "Requirements of affordable work force housing;

ratio of new construction" to "Requirements of affordable work force housing," as set out herein.

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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.)

Section 2: 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 3: 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 4: 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 _____, 2025.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2025.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2025.

Filed with the Clerk _____, 2025.

Mayor Danise Henriquez	_____
Vice Mayor Lissette Carey	_____
Commissioner Aaron Castillo	_____
Commissioner Monica Haskell	_____
Commissioner Mary Lou Hoover	_____
Commissioner Sam Kaufman	_____
Commissioner Donald “Donnie” Lee	_____

_____

DANISE HENRIQUEZ, MAYOR

ATTEST:

_____

KERI O’BRIEN, CITY CLERK