



Building Permit Allocation System 2017 Annual Report

INTRODUCTION:

This annual report is written in accordance with Section 108-995 of the Building Permit Allocation System Ordinance (BPAS) (Ordinance 13-19). This section requires the City Planner charged with implementation and interpretation of the Land Development Regulations 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.

ANALYSIS RESULTS:

The City's Building Permit Allocation System (BPAS), is a growth management mechanism developed and implemented in 1993 to ensure adequate evacuation time for residents and visitors in the event of a hurricane possibly affecting the City. The BPAS is also commonly referred to as the Rate of Growth Ordinance, or "ROGO", as the intent of the ordinance is to limit the amount and rate of new residential units approved in the City.

Building Permit Allocation System Ordinance 13-19

Ordinance 13-19 updated the existing Building Permit Allocation System regulations in response to the newly adopted Comprehensive Plan policies and the 2012 Hurricane Evacuation Model Memorandum of Understanding. The amendments established an application process for the allocation of 91 new residential units to be received from the State Department of Economic Opportunity (DEO) annually for ten years as well as necessary changes that allow for clarification, simplification, and ease of use for the residential development regulations process.

- 1. Lawful Unit Determination Process (LUD's)** – Under the Ordinance 13-19, the date a homeowner must prove his/her unrecognized residential unit was in existence has changed from April 1, 1990 to April 1, 2010, which is based on the most recent published US Census population data. The intent of the Building Permit Allocation System (BPAS), pursuant to City Code Section 108-987, is to implement the City's Comprehensive Plan by limiting annual permanent (non-transient) and transient residential development. All new permanent and transient residential units within the City are subject to the BPAS, except as expressly exempted in City Code Section 108-991.

The Planning Department has received over 106 applications to legitimize existing unrecognized residential units throughout the city. Staff's role in the process is to thoroughly research prior approvals, permits, and past and current zoning designations for each application during the determination process. The applicant will be responsible for paying back fees for utility and solid waste service as well as impact fees if any additional units are approved as being exempt from BPAS.

Table 1 Lawful Unit Determinations	
Remaining Applications (as of 9/2016)	54
Applications Received (since 9/2016)	52
Total Applications Completed (since 9/2016)	99
Total Active Applications Pending Review	7

Source: City of Key West Planning Department, 2017

2. **Beneficial Use Criteria** – Regulations codify Comprehensive Plan Policy 1-1.16.1 which required that the remaining residential BPAS units (from the original 1993 allocation) be reserved for Beneficial Use purposes only. The City has reserved enough Beneficial Use allocations to cover any potential takings claims, leaving the new unit allocations available for new development. Under the current ordinance, any existing or recognized residential unit captured by the City from the owner through the waiver and release of building permit allocation process due to the voluntary reduction of onsite residential density and/or change in residential use shall be reserved for beneficial use allocations only.

Table 2 Total ESFU Allocated through 2017	
Total ESFU Input	1649.00
Total ESFU Allocated	1599.87
Total Recovered / Surrendered	51.87
Total Expired (Ord 10-10)	16.55
Surplus:	117.55

Source: City of Key West Planning Department 2017

- 3. Application Process** - Using the framework adopted in the 2013 Comprehensive Plan, staff created an application process that ensures that the limited number of residential unit allocations is distributed in a fair and equitable manner over time and that any future residential development contributes to the sustainable future of the City of Key West.

Allocations by Residential Unit Type – Based on requirements in the Comprehensive Plan the Ordinance requires that unit types be allocated as follows

Table 3 Allocations by Residential Unit Type				
Application/ Allocation Year	Affordable Housing Units (AH)*	Market Rate Units	Transient Rental Units	Total Units
2013/2014	48 Units dedicated for Peary Court; 7 AH units available for allocation	36	0	91
2014/2015 2015/2016 2016/2017	55 annually; 165 over 3 years	36 annually; 108 over 3 years	0 10	91 annually; 273 over 3 yrs
2017/2018	45 annually	36 annually	10 annually	91
2022/2023	45 annually; 225 over 5 years	36 annually; 180 over 5 years	10 annually; 50 over 5 years	91 annually; 455 over 5 yrs
Over next 10 years	490	360	60	910

*Per City Commission Ordinance 16-16

- 4. Application Review and Ranking** – Every year the Building Permit Allocation application period will open to the public in July and will close in September. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board by March of the award year. Based on the level of proposed development, development plan approvals will be reviewed by the relevant Boards and Commissions no later than June of the award year. An application approval and allocation schedule will be published in June of each year with the specific deadlines and dates anticipated for final allocation approvals. BPAS Year 1, 2, 3, and 4 have been allocated as follows:

Table 4 BPAS Award Allocations				
Allocation Year	Total Number of Units Allocated (ESFU)			
	Market Rate	Affordable	Affordable Advanced Award	Transient
Year 1	24	7	15.9	0
Year 2	31	44.1	8.46	0
Year 3	7	14.72	0	0
Year 4	29	22	0	8.6
Subtotal	91	87.82	24.36	8.6
Total Allocations Remaining (through 2022/2023)	269	377.82	51.4	698.22

**Source: Planning Board Resolutions 2015-06, 2015-26 and 2016-16*

CONCLUSION:

The Planning Department estimates that a total of 117.55 ESFU remain unallocated and will be reserved as a contingency for potential beneficial use claims that were unanticipated by the City. It is estimated that there are approximately 78 lots of record **potentially** eligible for Beneficial Use consideration (based on on-going research performed by the Planning Department). While the demand for affordable housing may fluctuate, the recorded lots of record potentially eligible for beneficial use are very likely to remain, at minimum, the identified number (unless the Planning Department is able to determine some other build back right that may be established on the property).

Year 1, 2, 3, and 4 of BPAS have allocated a total of 91 market rate units, 112.18 affordable units and 8.6 transient units.

Attachments: A: Year 1, 2, 3, and 4 BPAS Allocations (PB Resolutions 2015-06, 2015-26 and 2016-16)