

DRAFT with Friendly Amendments

DIVISION 2. - BUILDING PERMIT ALLOCATION SYSTEM^[12]

Footnotes:

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Editor's note— Sec. 2 of Ord. No. 13-19, adopted Nov. 6, 2013, amended division 2 in its entirety to read as herein set out. Former div. 2 consisted of §§ 108-994—108-999, pertained to the same subject matter and derived from Ord. No. 09-07, adopted May 5, 2009; Ord. No. 10-10, adopted May 18, 2010; Ord. No. 12-15, adopted June 5, 2012; and Ord. No. 13-01, adopted Jan. 8, 2013.

Sec. 108-994. - Established.

The city establishes a building permit allocation system in order to limit the number of permits issued for permanent and transient units by structure type and affordability level (as shown on Table 1.0 below) to those available through the following means:

- (1) Units generating from policy 1-1.1.1 of the comprehensive plan that have not been allocated.
- (2) Legal mechanisms including memorandums of agreement between the Florida Department of Economic Opportunity and the City of Key West, development agreements, settlement agreements and consent final judgments.
- (3) Units as recovered by the city which were either previously allocated and unused or which derive from units which are determined not be affected by this article per section 108-991.

Table 1.0	
Residential Structure Type	Equivalent Single-Family Unit Factor ⁽¹⁾
Single-family	1.00 ^(a)
Accessory apt./SRO	0.78 ^(b)
Multifamily	1.00 ^(c)
Transient unit	0.86 ^(d)
Nursing home, rest home, assisted living facility and convalescent home	0.10 ^(e)

- (1) Pursuant to comprehensive plan policy 1-1.16.3, the equivalent single-family unit factors are based on the ratio of the average number of vehicles per unit based on the 2010 U.S. Census for the respective residential structure types divided by the vehicles per single-family units (i.e., 1.28 vehicles per unit). The computations are as follows:
 - (a) Single-family: $1.28/1.28 = 1.00$
 - (b) Accessory unit, single room occupancy (SRO): $1.00/1.28 = 0.78$
 - (c) Multifamily: $1.28/1.28 = 1.00$

- (d) Transient unit: $1.10/1.28 = 0.86$ based on the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys (1.10 vehicles per transient unit in Monroe County).
- (e) Nursing home, rest home, assisted living facility and convalescent home: $1.0/10 = 0.10$ based on provisions set forth in chapter [section] 86-9, definition of terms.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-11, § 2, 6-5-2018)

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 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. 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. Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

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 developme nt. Minimum of 7 affordable units.	Minimu m of 55 affordab le units. Maximu m of 36 market rate units.	Minimu m of 55 affordab le units. Maximu m of 36 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten	Minimu m of 45 affordab le units. Maximu m of 46 market rate units, of which a maximu m of ten	Minimu m of 45 affordab le units. Maximu m of 46 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units.	Minimu m of 45 affordab le units. Maximu m of 46 market rate units.

Maximum of 36 market rate units.			(10) units may be transien t.	(10) units may be transien t.					
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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)

Sec. 108-996. - Intent.

It is the intent of the City of Key West to create and manage a building permit allocation system that:

- (a) Is open to all property owners who wish to participate;
- (b) Establishes a minimum baseline standard for all new units and buildings that assures sustainability, environmental responsibility, human health and safety; and
- (c) Is cost effective and easily administered by city staff.

(Ord. No. 13-19, § 2, 11-6-2013)

Sec. 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; ~~exemption~~;*

(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.
- c. All new buildings shall be constructed with a rainwater catchment system that will hold a minimum of ~~300-1,000~~ gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater.

d. Applicants may request to be exempted from the rainwater catchment requirement, if:

(i) The applicant is pursuing points for providing 20% additional voluntarily affordable units that exceed the requirements of section 122-1467 at median or low-income classification.

(li) The applicant seeks to create accessory unit(s) on a property that is at or in exceedance of maximum building coverage and/or impervious surface ratio, and the applicant pays into the Stormwater Fund \$2 per gallon in mitigation for the size of cistern exempted.

- 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.
- (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)

Sec. 108-998. - Compact infill development and mixed use development incentives.

The city recognizes the need to encourage the redevelopment of aging commercial properties located within the city in order to promote housing opportunities in proximity to existing employment centers, and alternative transportation routes. Such development shall be known as compact infill development.

In order to encourage urban infill projects that meet design principles and standards contained in Comprehensive Plan Policy 1-1.1.4 residential density bonuses shall be allowed as follows:

Existing or Proposed Commercial Development	Additional Density	
	Allowed - Market Rate (MR) and Affordable Housing (AH)	
1,000 s.f. of floor area	0 MR	1 AH
5,000 s.f. of floor area	0 MR	2 AH
10,000 s.f. of floor area	0 MR	3 AH
12,500 s.f. of floor area	1 MR	3 AH
15,000 s.f. of floor area	2 MR	4 AH

20,000 s.f of floor area	3 MR	5 AH
25,000 s.f of floor area	4 MR	6 AH
30,000 s.f of floor area	5 MR	6 AH

- a. *Mixed use redevelopment:* For development including commercial floor area, provide secure lockable bicycle storage area. Provide a posted web address about transit options.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-11, § 6, 6-5-2018)

Sec. 108-999. - Procedures for ensuring beneficial use of private property.

- (a) It is the policy of the city that neither provisions of the comprehensive plan nor the land development regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which is a lot or parcel of record as of the date of adoption of the comprehensive plan (August 10, 1993) or lots of record which have been reconfigured such that the number of minimum sized lots are not increased. An owner of real property may apply for relief from the literal application of applicable land use regulations or of this plan when such application would have the effect of denying all economically reasonable or viable use of that property unless such deprivation is known to be necessary to prevent a nuisance under state law or in the exercise of the city's police power to protect the health, safety, and welfare of its citizens. All reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by land use case law.
- (b) The relief to which an owner shall be entitled may be provided through the use of one or a combination of the following:
- (1) Granting of a permit for development which shall be deducted from the pre-existing reserve units/beneficial use pool reserved to address outstanding beneficial use claims. All units that are recaptured by the city through a waiver and release of building permit allocation for residential units lawfully existing prior to May 2, 2013 shall be recorded and dedicated for beneficial use only. Beneficial use allocations shall be valid until such time that the owner chooses to obtain building permits, so long that no changes are made to the configuration or size of the lot or parcel that affect the conditions in which the beneficial use allocation is granted as described in subsection (a) above.
 - (2) Granting the use of transfer of development rights (TDRs) consistent with the comprehensive plan.
 - (3) Purchasing by the city of all or a portion of the lots or parcels upon which all beneficial use is prohibited.
 - (4) Such other relief as the city may deem appropriate and adequate.
- The relief granted shall be the minimum necessary to avoid a taking of the property under existing state and federal law.
- (c) Development approved pursuant to a beneficial use determination shall be consistent with all other objectives and policies of the comprehensive plan and land development regulations unless specifically exempted from such requirements in the final beneficial use determination.

(Ord. No. 13-19, § 2, 11-6-2013)

Sec. 108-1000. - Allocation of residential permits in the Truman Waterfront Redevelopment Area.

In order to facilitate redevelopment of the Truman Waterfront Parcel, equivalent single-family unit values and associated development rights may be transferred from anywhere within the city to land use classifications within the Truman Waterfront Parcel which allow residential development. This is not a transfer of density; rather, it pertains to the transfer of units which are recognized or vested in accordance with the building permit allocation ordinance. Any density associated with the unit host site will remain on that site; however, once the unit is transferred, the density on the host site cannot be developed until units are allocated through the building permit allocation ordinance. The planning department shall maintain records of the transfer of units under this provision.

(Ord. No. 13-19, § 2, 11-6-2013)

Secs. 108-1001—108-1125. - Reserved.