



## CITY OF KEY WEST

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# Building Permit Allocation System 2021 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 to provide an annual report to the Planning Board and the State Land Planning Agency to identify any remaining or unused allocations for the current year and the number of permits by building type that have been allocated by September 1 for each year of the BPAS.

### **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.

**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 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.

**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. Until June 2020, the Planning Department was accepting residential units into the Beneficial Use pool, if property owners elected to utilize the waiver and release of building permit allocation to voluntarily reduce onsite residential density in order to receive and utilize a transient unit and license pursuant to the criteria in **Sec. 122-1339. – Transfer of transient business tax receipt.** However, the displacement of non-transient housing for residents renting in Key West all year round exacerbates the city’s workforce and affordable housing problem. Therefore, the City will no longer receive new inputs except in special circumstances.

| <b>Total Beneficial Use Units Allocated through 2021</b>               |               |
|--|---------------|
| Total Beneficial Use Allocation <b>Surplus</b> through June 30, 2021   | 117.55        |
| Total Beneficial Use Allocated from July 1, 2020 through June 30, 2021 | 1             |
| Total Recovered / Surrendered from July 1, 2020 through June 30, 2021  | 0             |
| <b>Total Surplus:</b>  | <b>116.55</b> |

*Source: City of Key West Planning Department 2021*

**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:

| <b>Allocations by Residential Unit Type</b>                   |   |  |   |                                |
|---|---|--|---|--------------------------------|
| <b>Application/<br/>Allocation<br/>Year</b>                   | <b>Affordable<br/>Housing Units (AH)*</b>                               | <b>Market Rate<br/>Units</b>               | <b>Transient<br/>Rental Units</b>                     | <b>Total Units</b>             |
| 2013/2014   | 48 Units dedicated for Peary Court; 7 AH units available for allocation | Maximum of 36                              | 0   | 91 annually                    |
| 2014/2015<br>2015/2016  | Minimum of 55 annually  | Maximum of 36 annually;<br>72 over 2 years | 0   | 91 annually                    |
| 2016/2017<br>2017/2018  | Minimum of 45 annually  | Maximum of 46 annually;<br>92 over 2 years | Maximum of 10 annually<br>(deducted from market rate) | 91 annually                    |
| 2018/2019<br>2019/2020<br>2020/2021<br>2021/2022<br>2022/2023 | Minimum of 45 annually;<br>225 over 5 years                             | Maximum of 46;<br>230 over 5 years         | 0   | 91 annually;<br>455 over 5 yrs |
| <b>Over next<br/>10 years</b>                                 | <b>480</b>  | <b>430</b>                                 |   | <b>910</b>                     |

\*Per City Commission Ordinance 17-13

- 1. Application Review and Ranking** – The Building Permit Allocation application period opens to the public in July of each year until the system ends per Ordinance 13-19. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board. 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, 4, 5, 6, 7, and 8 have been allocated as follows:

| <b>BPAS Award Allocations</b>                          |   |                      |                                  |   |
|--|---|----------------------|----------------------------------|---|
| <b>Allocation Year</b>                                 | <b>Total Number of Units Allocated (ESFU)</b> |                      |                                  |   |
|  | <b>Market Rate</b>                            | <b>Affordable</b>    | <b>Affordable Advanced Award</b> | <b>Transient</b>                            |
| Year 1   | 36  | 55                   | 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   |
| Transferred Via Ordinance No. 17-13                    | 0   | 104                  | 0                                | 0   |
| Year 5   | 46  | 4.78                 | 0                                | 0   |
| Year 6   | 9   | 105.56               | 0                                | 0   |
| Year 7   | 7   | 2.34                 | 0                                | 0   |
| Year 8   | 43  | 24.96                | 0                                | 0   |
| Recovered /Surrendered Units                           | +2  | +11.56               |                                  |   |
| <b>Subtotal</b>  | <b>208</b>                                    | <b><u>377.46</u></b> | <b><u>24.36</u></b>              | <b>8.6 (deducted from market rate pool)</b> |
|  |   | <b>401.82</b>        |                                  | <b>618.42</b>                               |
| <b>Total Allocations Remaining (through 2022/2023)</b> | <b>215.4*</b>                                 | <b>89.74*</b>        | <b>0</b>                         | <b>305.14*</b>                              |

\*Source: PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2020-025, 2021-20, and Ordinance 17-13. Also, 103 affordable units may be surrendered/recovered to the affordable BPAS pool if litigation is resolved associated with the City of Key West's 300 Early Evacuation Affordable pool. The 103 units were awarded on April 22, 2021, PB Resolution 2021-06. The Major Development project on College Road will surrender 103 previously allocated units and replace them with Early Evacuation units.

**CONCLUSION:**

The Planning Department estimates that a total of 116.55 beneficial use units remain unallocated and will be reserved as a contingency for potential beneficial use claims.

Years 1, 2, 3, 4, 5, 6,7, and 8 of the BPAS have allocated a total of 618.42 units, of which just over 64-percent are for deed-restricted affordable rate projects.

Attachments: A: Year 1, 2, 3, 4, 5, 6, 7, and 8 BPAS Allocations (PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2020-25, 2021-06, 2021-20, and Ordinance 17-13)