

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 122 OF THE CODE OF ORDINANCES, ENTITLED "ZONING" BY ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 3, ENTITLED "AREA REQUIREMENTS", SECTION 122-1145, ENTITLED "REQUIRED YARDS.", TO AMEND YARD COVERAGE AND NONCONFORMITY REGULATIONS TO REDUCE REGULATORY BARRIERS TO THE ELEVATION OF DWELLING UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Comprehensive Plan Policy 1-1.1.14: Prepare for Future Sea Level Rise calls on the City to take proactive steps to increase residential resiliency and adapt to sea level rise and storm surges; and

**WHEREAS**, elevating homes to design flood elevation can reduce or avoid future flood losses, increase resilience and post-disaster recovery, and contribute to reduced flood insurance premiums; and

**WHEREAS**, certain provisions of the Land Development Regulations ("LDRs") can pose barriers to property owners who wish to elevate their homes; and

**WHEREAS**, the City of Key West finds that it is necessary to amend Land Development Regulations Chapter 122 entitled

"Zoning", Article V, entitled "Supplementary District Regulations", Division 3, entitled "Area Requirements", Section 122-1145, entitled "Required yards."; and

**WHEREAS**, the proposed amendment to LDRs would reduce barriers to home elevation by waiving setback, building coverage, and open space requirements to accommodate the addition of ingress/egress structures and elevated equipment platforms for properties being elevated to design flood elevator or higher; and

**WHEREAS**, in accordance with Section 90-522, the Planning Board held a noticed public hearing on March 12, 2024, where based on the consideration of recommendations of 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 2024-\_\_\_\_ ; 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;

**WHEREAS**, an amendment to section Chapter 122 entitled "Zoning", Article V, entitled "Supplementary District Regulations", Division 3, entitled "Area Requirements", Section 122-1145, entitled "Required yards." of the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

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

Section 1: That Chapter 122 entitled "Zoning", Article V, entitled "Supplementary District Regulations", Division 3, entitled "Area Requirements", Section 122-1145, entitled "Required yards." of the Code of Ordinances is hereby amended as follows\*:

**Sec. 122-1145. Required yards.**

- a) *Purpose, use and maintenance of yards.* The purpose of yards required in the land development regulations is to provide open space around and between structures for health, safety and aesthetic purposes. The purpose is also to prevent the location of structures within dedicated easements. All required yards and landscaped areas shall be planted and maintained in lawn, sod, or landscaping, including flower beds, shrubs, hedges or other generally accepted landscaping material approved by the city. Landscaping material, including trees, shall not obstruct the vision of the motoring public. The landscape requirements of article VI of chapter 108 shall further regulate development within all zoning districts, excepting single-family zoned districts.
- b) *General encroachments into required yards.* Encroachments into required yards shall be in compliance with the following:

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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.)

1) *Projections and obstructions.* Every part of every required yard shall be open and unobstructed from the ground to the sky except as follows or as otherwise permitted in divisions 2 through 14 of article IV of this chapter or in division 2 of this article or in this division:

a. Movable awnings may project not over three feet into a required yard, provided that where the yard is less than five feet in width the projection shall not exceed one-half the width of the yard.

b. Awnings, canopies, or marquees outside the historic district may not project over three feet into a required yard. The location of exterior open stairs must be approved by the building department, and such exterior open stairs can be no closer than 30 inches to an adjacent property line.

c. Fences, walls and hedges shall be permitted in required yards subject to the land development regulations.

- d. Accessory parking may be located in a required front, rear or side yard.
- e. For the calculation of building coverage, properties with structures that have overhangs and/or eaves may reduce building coverage by the width of the overhangs and/or eaves.
- f. Gutters and downspouts shall not be considered building coverage and shall be permitted to protrude into any setbacks as long as they remain within the property lines of the applicable parcel.
- g. Encroachments into required yards are permitted to allow necessary improvements to a lawfully-existing dwelling unit being retrofitted by elevating the unit to meet or exceed design flood elevation. Setback, building coverage, and open space requirements are waived to allow necessary improvements. Necessary improvements are limited to:

1. Ingress/egress structures (stairs, ramps, landings, elevators, and similar.) The waiver provided shall be

the minimum necessary to provide access to the structure that is in compliance with fire code requirements.

2. Accessory elevated platforms above base flood for equipment (mechanical, plumbing and electrical systems, appliances and components) situated at least five (5) feet from the rear and side property lines, or the minimum required setback for the zoning district, whichever is less. Accessory elevated platforms are limited to non-habitable space and shall not include elevated decks, patios, and similar structures.
3. The improvements shall be constructed to avoid off-site discharge of stormwater from the subject parcel in accordance with Article VIII of Chapter 108.

This provision shall not function to permit the construction alteration of any structure or improvement that obstructs clear and free passage of emergency

responders or that otherwise conflicts with  
fire safety Code.

2) *Exceptions.* Typical play equipment, wires, lights, mailboxes, ornamental entry columns and gates, and outdoor furniture are not considered as encroachments.

c) *Yards.* A yard shall be defined as an open space at grade between a building and the adjoining lot lines, unoccupied, open to the sky and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in the land development regulations. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used (a driveway or off-street parking area may be a portion of a "yard").

1) *Front yard.* Front yards shall be defined as the yard abutting a street (i.e., street frontage lot). The depth of required front yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with



its inner edge parallel with the front lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the front (street frontage) property line. The front yard regulations shall apply to all lots fronting on a street.

2) *Rear yard.* A rear yard is a yard extending across the rear of a lot between the side lot lines and which is the minimum horizontal distance between the rear of the main building or any projections thereof other than projections or encroachments specifically provided for in the land development regulations. For all corner lots, the rear yard shall be as indicated in subsection (c)(4) of this section for corner lots. The depth of required rear yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the rear lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the rear property line.

3) *Side yard.* A side yard is a yard between the main building and the sideline of the lot and extending from the front lot line to the rear yard, which is the minimum

horizontal distance between a side lot line and the side of the main building or any projections thereof. For all corner lots, the side yard shall be as indicated in subsection (c)(4) of this section. The width of required side yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the side lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the side property line.

4) *Determining yards on corner lot.* On corner lots abutting two intersecting streets, the setbacks shall be measured as described in subsections (c)(1) through (3) of this section with the front, side and rear lot lines being determined as follows:

- a. One street frontage shall be declared a front yard.
- b. The other street frontage shall be a street side yard.
- c. The rear yard shall be the yard opposite the declared front yard.
- d. The remaining yard shall be the interior side yard.

(Ord. No. 97-10, § 1(2-5.9(E)), 7-3-1997; Ord. No. 22-25, § 2, 8-16-2022)

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 Commerce, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Filed with the Clerk \_\_\_\_\_, 2024.

Mayor Danise Henriquez \_\_\_\_\_

Vice Mayor Sam Kaufman \_\_\_\_\_

Commissioner Lissette Carey \_\_\_\_\_

Commissioner Monica Haskell \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

Commissioner Donald "Donie" Lee \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

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DANISE HENRIQUEZ, MAYOR

ATTEST:

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KERI O'BRIEN, CITY CLERK