



## MEMORANDUM

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Date: December 12, 2023

To: Chairman and Planning Board Members

From: Raj Ramsingh  
Chief Building Official

Subject: A request to approve the proposed text amendment to Section 122-232 entitled "Accessory Units", and Section 122-233 entitled "Special Criteria Applicable to Accessory Units" of the Land Development Regulations to reduce the setback requirement for deed-restricted affordable accessory units to 5 feet.

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### **Introduction**

The purpose of this ordinance is to amend the City of Key West Land Development Regulations to reduce the required setback for deed-restricted affordable accessory units to five (5) feet. To achieve this, Section 122-232 and Section 122-233 of the Land Development Regulations must be amended as drafted in Exhibit A. The goal of this text amendment is to loosen strict dimensional requirements currently imposed on deed-restricted affordable accessory units within the Single-Family (SF) zoning district. The proposed text amendment was developed by the Building Department and is recommended for approval to the Planning Board.

### **Background**

In accordance with Section 122-232 of the Land Development Regulations (LDR's), deed-restricted affordable accessory units (accessory units) must comply with all size and dimension requirements of a principal structure, which includes setback requirements. Accessory units are only permitted within the Single-Family (SF) zoning district, which requires principal structures to maintain a rear setback of 25 feet, or 20 feet when abutting an alley, and a minimum side setback of 5 feet. Nevertheless, setback requirements for accessory structures such as a guest house, pool house, or mother-in-law suite, is five feet from any lot line.

Compared to other zoning districts, the LDR's require a larger lot size for properties within the SF zoning district. The current lot size regulations for SF properties were adopted in 1997, which falls after the establishment of many of the existing single-family properties. Applying principal unit setback requirements onto deed-restricted affordable accessory units creates an unnecessary hardship for property owners who wish to construct an accessory unit but cannot maintain the required 20–25 foot rear setback due to lot size or the location of their existing single-family home.

The proposed text amendment allows for deed-restricted affordable accessory units to be erected at a minimum of 5 feet, which is intended to mirror the requirement for similarly sized accessory structures.

This text amendment does not permit the erection of deed-restricted affordable accessory units within a parcel's required front yard without approval from the Planning Board through a variance.

### **Analysis**

The purpose of Chapter 90, Article VI, Division 2 of the Land Development Regulations (the "LDRs") of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City") is to provide a means for changing the text of the Land Development Regulations. It is not intended to relieve hardships nor to confer special privileges or rights to any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Planning Board and the City Commission shall consider the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-520, the Planning Board shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change in the LDRs to the City Commission for official action.

The Code provides criteria by which LDR amendments must be evaluated:

**a. *Comprehensive plan consistency. Identifying impacts of the proposed change in zoning on the comprehensive plan. The zoning must be consistent with the comprehensive plan.***

The proposed text amendment is intended to loosen strict setback requirements imposed on deed restricted affordable accessory units, thereby facilitating the construction of such affordable housing units. Affordable housing is a critical need within the community and is addressed as such in the Comprehensive Plan, particularly in Chapter 1 - *Affordable Housing Needs Analysis*.

**b. *Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Potential land use incompatibility and impacts on infrastructure shall be identified.***

The proposed text amendment is anticipated to benefit residential property owners and renters who establish full time residency in Key West. Property owners must adhere to a five-foot setback for accessory structures, though are faced with tighter restrictions for construction of an affordable accessory unit. The proposed text amendment would loosen strict dimensional requirements currently imposed on affordable accessory units.

**c. *Avoidance of spot zoning. The proposed change shall not constitute a spot zone change. Spot zoning occurs when:***

**1. *A small parcel of land is singled out for special and privileged treatment;***

The proposed text amendment does not affect the zoning of any specific parcel within the City.

**2. *The singling out is not in the public interest but only for the benefit of the landowner; and***

The proposed text amendment is within the public interest and is intended to ease restrictions on deed-restricted affordable accessory units.

**3. *The action is not consistent with the adopted comprehensive plan.***

The proposed text amendment is consistent with the Comprehensive Plan by reducing strict dimensional requirements of deed-restricted accessory units, which further acknowledges and supports the need for affordable housing.

**d. *Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.***

The proposed text amendment only pertains to the Single-Family zoning district to relax setback requirements on accessory units.

**Recommendation**

Staff recommends approval of the proposed text amendments to Section 122-232 entitled “Accessory Units”, and Section 122-233 entitled “Special Criteria Applicable to Accessory Units” of the Land Development Regulations as outlined in the attached draft ordinance.

Exhibits:

Exhibit A – Proposed Ordinance