

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 34 OF THE CODE OF ORDINANCES ENTITLED "FLOODS" BY AMENDING SECTION 34-125 TO REQUIRE PROPERTY APPRAISALS NOT OLDER THAN ONE YEAR AND THAT DESIGN CERTIFICATIONS AND ELEVATIONS INCLUDE PHOTOGRAPHS; AMENDING SECTION 34-126 BY ADDING SECTION 34-126(2) (b) TO ADOPT "APPENDIX G" OF THE FLORIDA BUILDING CODE AND ADDING SECTION 34-126(3) (h) TO LIMIT ENCLOSED AREAS BELOW FLOOD LEVELS TO A MAXIMUM OF 299 SF WHEN USED IN CONJUNCTION WITH THE BUILDING HEIGHT EXCEPTION UNDER SEC 122-1149; AMENDING SECTION 34-132 TO ADD DEFINITIONS FOR FLOODPROOFING, DRY FLOOD PROOFING, WET FLOODPROOFING, PUBLIC RESTROOMS IN SFHAs, AND TO AMEND THE DEFINITIONS OF SPECIAL FLOOD HAZARD AREA, STRUCTURE, SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT; AMENDING SECTION 34-133 BY ADDING SECTION (3) TO ESTABLISH CONSTRUCTION STANDARDS FOR CERTAIN PUBLIC RESTROOMS; AMENDING SECTION 34-139 BY ADDING SECTION 34-139(2) REGARDING ELEVATOR CAB DEFAULT RETURN ABOVE FLOOD LEVEL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Legislature of the State of Florida has, in **Chapter 166**, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of City of Key West and such areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the City of Key West was accepted for participation in the National Flood Insurance Program on August 5, 1974, and the City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, the City Commission finds that changes to the Floodplain Ordinance would promote the health, safety and welfare of the citizens of Key West.

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

Section 1: That Section 34-125 of the Code of Ordinances
is hereby amended as follows*:

**Sec. 34-125. - Duties and powers of the floodplain
administrator.**

* * * * *

(4) Substantial improvement and substantial damage
determinations. For applications for building permits to improve
buildings and structures, including alterations, movement,
enlargement, replacement, repair, change of occupancy, additions,
rehabilitations, renovations, substantial improvements, repairs of
substantial damage, and any other improvement of or work on such
buildings and structures, the floodplain administrator, shall:

(a) Estimate the market value, or require the applicant to
submit appraisals - not older than one year - ~~obtain an appraisal~~
of the market value prepared by a qualified independent appraiser,
of the building or structure before the start of construction of
the proposed work; in the case of repair, the market value of the
building or structure shall be the market value before the damage
occurred and before any repairs are made;

*(Coding: Added language is underlined; deleted language is
~~struck through~~.)

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; for proposed work to repair damage caused by flooding, the determination requires evaluation as specified in the definition of "substantial damage"; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the Florida Building Code and this ordinance is required.

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(8) Other duties of the floodplain administrator. The floodplain administrator shall have other duties, including, but not limited to:

(a) Establish, in coordination with the building official, procedures for administering and documenting

determinations of substantial improvement and substantial damage made pursuant to Section 34-125(4) of this ordinance;

(b) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(c) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

(d) Review required design certifications and documentation of elevations specified by this ordinance and the Florida Building Code and this ordinance to determine that such certifications and documentations are complete and include photographs that at a minimum show the front and rear of the building and its foundation;

(e) Notify the Federal Emergency Management Agency when the corporate boundaries of City of Key West are modified; and

(f) Advise applicants for new buildings and structures, including substantial improvements that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

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Section 2: That section 34-126 of the code of ordinances is hereby amended as follows*:

Sec. 34-126. - Permits.

(1) Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and

the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

(2) Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(a) Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this ordinance:

1. Railroads and ancillary facilities associated with the railroad.

2. Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

3. Temporary buildings or sheds used exclusively for construction purposes.

4. Mobile or modular structures used as temporary offices.

5. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

6. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

7. Temporary housing provided by the department of corrections to any prisoner in the state correctional system.

8. Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.

b. In accordance with "Appendix G" of the current Florida Building Code.

(3) Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

(a) Identify and describe the development to be covered by the permit or approval.

(b) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(c) Indicate the use and occupancy for which the proposed development is intended.

(d) Be accompanied by a site plan or construction documents as specified in section 34-127 of this ordinance.

(e) State the valuation of the proposed work.

(f) Be signed by the applicant or the applicant's authorized agent.

(g) Give such other data and information as required by the floodplain administrator

(h) Applications utilizing the Building Height Exception under Sec. 122-1149, requires specific floodplain approval ensuring enclosures below Base Flood Elevation do not exceed 299 square feet, and remain subject to the usage limitations specified in section 1612 of the Florida Building Code.

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Section 3: That section 34-132 of the code of ordinances is hereby amended as follows*:

Sec. 34-132. Definitions, specific.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

* * * * *

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent

storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Dry Floodproofing. See Floodproofing, Dry.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before August 5, 1974. [Also defined in FBC, B, Section 1612.2.]

* * * * *

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or

improved real property, water and sanitary facilities, structures and their contents.

Floodproofing, Dry. Floodproofing method used to render a structure envelope substantially impermeable to the entrance of floodwater, outside of type "V" flood zones.

Floodproofing, Wet. The permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter the structure. Flood Damage Resistant Materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters, without sustaining any damage that requires more than cosmetic repair.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

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Park trailer. A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when

connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01]

Public Restrooms in SFHAs. "Public Restroom" in a special flood hazard area is a structure designed and constructed to meet the sanitary needs of the public when visiting coastal and non-coastal properties. Such structures may include toilet rooms, changing rooms, shower stalls, required plumbing including backflow preventers, a minimum service drop for electrical equipment for lighting and receptacles, grinder pumps. Public restrooms shall provide the above elements only, and may also be called "comfort stations", "bath houses" or "bathrooms". Public restrooms shall be designed and constructed to withstand hydrodynamic, hydrostatic and wave load impacts, and extended periods of flood inundation. Such structures shall meet or exceed the NFIP, IBC, FBC and the ASCE/SEI24-05 standards for construction in A zones and V zones when constructed either above or below BFE.

Recreational vehicle. A vehicle, including a park trailer, which is: [See F.S. § 320.01]

1. Built on a single chassis;

2. Four hundred square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light-duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

~~*Special flood hazard area (A/K/A flood hazard area).* An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]~~

Special Flood Hazard Area (SFHA). Land in the floodplain subject to a 1% or greater chance of flooding in any given year; area delineated on the Flood Insurance Rate Map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE, or V1-30.

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair,

reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

Structure. For floodplain management purposes:

□ A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or

A manufactured home (a "manufactured home," also known as a mobile home, is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

A gas or liquid storage tank.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred, which is known as a "repetitive loss." Accumulated deterioration or decay contributes toward substantial damage.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement or alteration of a building or structure, taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to 1986. The five-year period is extended if the improvements are not completed within this time, until all the improvements pass all final inspections. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure and the alteration is

approved by variance issued pursuant to section 34-129 of this ordinance.

Variance. A grant of relief from the requirements of this ordinance, or the flood-resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this ordinance or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Wet Floodproofing. See Floodproofing, Wet.

Section 4: That section 34-133 of the code of ordinances is hereby amended as follows:

**Sec. 34-133. - Flood-resistant development;
buildings and structures.**

(1) Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 34-126(2)(a) of this ordinance, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be

designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of [section 34-139](#) of this ordinance.

(2) Buildings and structures seaward of the coastal construction control line. If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(a) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.

(b) Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this ordinance and ASCE 24.

(3) Public Restrooms.

(a) Not structurally connected to another structure.

(b) Are permitted below the elevations specified in

ASCE-24, Table 4-1, if constructed in accordance with the provision of this Public Restrooms section.

(c) Piles, pile caps, footings, mat or raft foundations, grade beams, columns and shear walls designed and constructed in accordance with ASCE/SEI 24-05, Section 4.5 shall not be required to meet the elevation requirements of ASCE-24, Table 4-1.

(d) Public restroom foundations must be designed and constructed in accordance with ASCE/SEI 24-05, Section 4.5, to minimize forces acting on that system.

(e) All new construction and substantial improvements shall be reasonably safe from flood damage:

(i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(ii) be constructed with materials resistant to flood damage;

(iii) be constructed by methods and practices that minimize flood damages; and designed to account for the following:

(1) Waves breaking against the side or underside of the structure;

(2) Drag, inertia, and other wave-induced forces acting on structural members supporting elevated structures;

(3) Uplift forces from breaking waves striking the undersides of structures;

(4) Wave run-up forces including those deflected by the structure; and

(5) Erosion and scour.

(6) The structure must be protected to the maximum extent possible using an appropriate alternative flood protection technique, such as wet floodproofing provided that such structures represent a minimal investment and are designed to have a low damage potential with respect to the structure and contents.

(7) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify the design and methods of construction to be used.

iv. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(f) Materials used in new construction in flood hazard areas shall have sufficient strength, rigidity, and durability to adequately resist all flood-related and other loads during installation.

(g) Plumbing systems shall be designed and constructed to withstand flood waters and to prevent contamination of surface waters in accordance with the provisions of ASCE/SEI 24-05, Section 7.3.

(4) Appliances

(a) Appliances servicing a building, to be replaced or substantially repaired more than 50 percent of its salvage value, shall be installed at a minimum height of Design Flood Elevation.

Section 5: That Section 34-139 of the code of ordinances is amended as follows:

Sec. 34-139. - Other Development.

(1) General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the Florida Building Code, shall:

(a) Be located and constructed to minimize flood damage;

(b) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(c) Be constructed of flood damage-resistant materials; and

(d) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(2) ~~Reserved.~~ Elevators located within regulated flood zones shall have a default cab return to any floor at or above the design flood elevation.

(3) Reserved.

(4) Reserved.

(5) Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V). In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar

nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(a) Structurally independent of the foundation system of the building or structure;

(b) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(c) Have a maximum slab thickness of not more than four inches.

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Section 6: 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 7: 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 8: 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.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2016.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2016.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2016.

Filed with the Clerk _____, 2016.

Mayor Craig Cates	_____
Vice Mayor Clayton Lopez	_____
Commissioner Sam Kaufman	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK