

**PLANNING BOARD  
RESOLUTION NO. 2024-012**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD RECOMMENDING APPROVAL OF AN ORDINANCE TO THE CITY COMMISSION TO AMEND LAND DEVELOPMENT REGULATIONS CHAPTER 86 ENTITLED "GENERAL PROVISIONS", SECTION 86-9 ENTITLED, "DEFINITION OF TERMS.", CHAPTER 122 ENTITLED "ZONING", ARTICLE V. ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 4 ENTITLED "ACCESSORY USES AND STRUCTURES", SECTION 122-1181 ENTITLED "PERMITTED AND RESTRICTED USES" AND SECTION 122-1185 ENTITLED "SWIMMING POOLS", AND TO CREATE SECTION 122-1187 ENTITLED "COVERED PATIOS, GAZEBOS, AND OTHER ROOFED STRUCTURES.", TO PROVIDE FOR AN AMENDED DEFINITION OF THE TERMS "BUILDING COVERAGE" AND "ACCESSORY STRUCTURE", AMEND THE REQUIRED SETBACKS FOR SWIMMING POOLS, AND CREATE REGULATIONS FOR THE CONSTRUCTION OF COVERED PATIOS, GAZEBOS AND SIMILAR ROOFED STRUCTURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Land Development Regulations of the City of Key West, Florida regulate the minimum and maximum percentage of building coverage and open space that is permitted on a lot; and

**WHEREAS**, the Land Development Regulations regulate the use, size, and location of accessory structures and principal structures, and

         *WHL* Chairman  
         *KPH* Planning Director

**WHEREAS**, Land Development Regulations Section 86-9, entitled “Definition of terms” provides a definition for the terms “building coverage”, “open space”, “accessory structure”, and “principal structure”; and

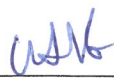

**WHEREAS**, amending the term “building coverage” to exclude yard items 30 inches or higher from building coverage calculation, only including structures with an affixed location and nonpermeable roof, would provide greater flexibility to property owners pursuing new or development; and

**WHEREAS**, amending the definition of “accessory structure” to only include buildings with two walls and a roof, which would further loosen restrictions imposed on property owners; and

**WHEREAS**, in order to support the proposed amendments, City staff finds it necessary to modify the existing definitions of the terms “Open space (green area)” and “Principal structure”, and create a section of code that regulates the construction of covered patios, gazebos, and similar structures with a fully secured roof to promote fire and life safety access; and

**WHEREAS**, the proposed amendments would reduce regulatory barriers to the development of accessory dwelling units for certain properties;

**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

          Chairman  
          Planning Director

public hearing, the Board recommended approval of the proposed amendments through Planning Board Resolution 2024-012 ; and

**WHEREAS**, the Planning Board has also 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;

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2 : That Chapter 86 entitled “General Provisions”, Section 86-9 entitled, “Definition of terms.”, Chapter 122 entitled “Zoning”, Article V. entitled “Supplementary District Regulations”, Division 4 entitled “Accessory Uses and Structures”, Section 122-1181 entitled “Permitted and restricted uses” and Section 122-1185 entitled “Swimming pools”, and to create Section 122-1187 entitled “Covered patios, gazebos, and other roofed structures.” are hereby amended as follows:

WSH Chairman  
KPH Planning Director

**Sec. 86-9. – Definition of terms.**

Terms not otherwise defined in this section shall be interpreted first by reference to the comprehensive plan and this subpart B; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise. For the purpose of enforcing and administering this subpart B, the following words shall have the definition and meanings ascribed:

{...}

*Accessory structure* means a subordinate structure with two or more outside rigid walls and a fully secured roof that is detached from the principal structure and located on the same parcel or property, the use of which is incidental to that of the principal structure.

{...}

*Building coverage* means the percentage of lot area covered by buildings or structures affixed to a permanent site or foundation with a fully secured nonpermeable roof. ~~the percentage of lot area covered by buildings and including roofed porches, eaves, decks and similar structures as well as all structures, including structural elements such as raised decks, 30 inches or more above grade.~~ 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. 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. Exterior

WJA Chairman  
KPH Planning Director



staircases shall not be included in building coverage calculation.

{ ... }

*Open space (green area)* includes the gross area of the site less any building, structure, coverage, parking surface, internal traffic circulation system, ~~and~~ or other impervious surfaces, all of which should be open from the ground to the sky. Open space areas shall remain open and unobstructed to the sky that can be used for active or passive recreation purposes. For the calculation of open space, properties with structures that have overhangs and/or eaves may consider the areas beneath those overhangs and/or eaves, as open space, so long as these areas remain otherwise open and unobstructed to the sky. Parking and loading areas of any type shall not be allowed in any required open space.

{ ... }

*Principal structure* means a building occupied by the principal use of the premises or lot. In a residential district any dwelling shall be deemed to be the principal building on the lot where it is located. An attached carport, shed, garage, or any other structure with one or more walls or a part of one wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. ~~A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building.~~ A conforming detached and structurally independent accessory structure ~~garage, carport, or other structure conforming as an accessory building~~ may be attached to the principal building by an open breezeway not to exceed six feet in width. A connecting breezeway in excess of six

WJK Chairman  
KPH Planning Director

feet and enclosed on one or both sides, including louvers, lattice or screening, shall cause the entire structure to be construed as the principal building and shall be subject to the regulations applicable to the principal building.

{...}

**DIVISION 4. - ACCESSORY USES, AND ACCESSORY STRUCTURES, AND OTHER STRUCTURES**

**Sec. 122-1181. - Permitted and restricted uses.**

Accessory uses or structures as defined in section 86-9 shall be allowed in all districts. Such accessory uses or structures shall be permitted by right in a subject district if the principal use is a permitted use; however, the accessory use or structure shall be a conditional use if the principal use is a conditional use. Except as otherwise provided herein, No accessory uses or structure shall be erected in any required front or side yard; and the an accessory uses or structure shall not cover more than 30 percent of any required rear yard; and No separate accessory structures shall be erected less than five feet of any lot line. Accessory buildings must be constructed simultaneously with, or following, the construction of the main building and shall not be used until after the principal structure has received a certificate of occupancy. The erection of structures that do not meet the criteria of an accessory structure as defined in Section 86-9 must adhere to the applicable regulations set forth within the Florida Building Code. Any deck 30" or greater in height shall be erected no less than 5' from side and rear

WJH Chairman  
KPH Planning Director

property lines. Erection of tents is prohibited. Hot tubs, whether fixed or movable, shall be considered accessory structures for the purpose of setbacks.

{...}

**Sec. 122-1187. – Covered patios, gazebos, and other roofed structures.**

No covered patio, gazebo, pergola, or other roofed structure shall be constructed within five feet of any side or rear property line, nor shall such structure be constructed in a required front yard. This section of code shall not govern open air carports, which are regulated by Section 122-1182.

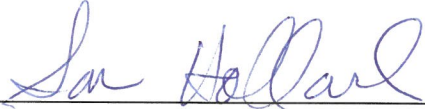
**Section 3:** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

**Section 4.** This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Commerce (DOC). Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty-five (45) days after it has been properly rendered to the DOC with all exhibits and applications attached to or incorporated by reference to this approval; that within the forty-five (45) day review period the DOC can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement order.

USA Chairman  
KPH Planning Director

Read and passed on first reading at a regular meeting held this 12<sup>th</sup> day of March, 2024.

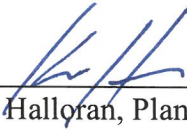
Authenticated by the Chairman of the Planning Board and the Planning Director;



Sam Holland, Planning Board Chair

Date

**Attest:**

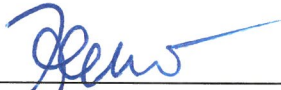


Katie P. Halloran, Planning Director

4/3/2023

Date

**Filed with the Clerk:**



Keri O'Brien, City Clerk

4/4/2024

Date

 Chairman  
 Planning Director