

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KEY WEST,
FLORIDA, AMENDING CHAPTER 14 OF THE CODE
OF ORDINANCES, ENTITLED "BUILDINGS AND
BUILDING REGULATIONS" BY AMENDING
SECTIONS 14-35 AND 14-38, TO UPDATE AND
AMEND CERTAIN FLOODPLAIN REGULATIONS;
PROVIDING FOR SEVERABILITY; PROVIDING
FOR REPEAL OF INCONSISTENT PROVISIONS;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West finds that it is necessary to amend floodplain-related regulations to clarify what constitutes "substantial improvement," to update manufactured homes requirements in the floodplain and increase oversight for enclosures below base flood level from time to time; and

WHEREAS, additional floodplain related amendments will be enacted in Chapter 34, through a separate concurrent ordinance amendment

WHEREAS, Chapter 553, Florida Statutes, allows for local administrative and technical amendments to the Florida Building Code that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

WHEREAS, the City of Key West is adopting requirements to require declarations of land restriction (nonconversion agreements); reduce previously specified period of accumulation of costs for determination of substantial improvement; and to clarify which professionals provide specific certifications; for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the Florida Building Code; and

WHEREAS, the City of Key West has determined that it is in the public interest to adopt the proposed local technical amendments to the Florida Building Code, and the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes.

WHEREAS, amendments to sections 14-35 and 14-38 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 14, "Buildings and Building Regulations, Article II. Building Codes Sections of the Code of Ordinances is hereby amended as follows*:

CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. BUILDING CODES

Sec. 14-31. Adopted construction codes.

The most current editions as adopted by the State of Florida Building Commission of the Florida Building Code, Building; the Florida Building Code, Plumbing; the Florida Building Code, Mechanical; the Florida Building Code, Fuel Gas; the Florida Building Code, Existing Building; the Florida Building Code, Residential, NFPA 70, the National Electrical Code; the Florida Building Code, Energy Conservation, and the Florida Building Code, Accessibility are hereby adopted and made a part of the Code of Ordinances.

*(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.)

Sec. 14-32. Conflicts.

If any conflict occurs between the provisions of the building codes adopted in section 14-31 and the applicable provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the more strict code shall prevail and be controlling.

Section 14-33. Definitions.

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Section 14-34. Penalty for violation.

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Sec. 14-35. Amendments to building code.

The Florida Building Code adopted by the provisions of section 14-31 is amended in the following respects:

~~Sec. 104.10.1, Florida Building Code, Building~~

~~Add a new Sec. 104.10.1 as follows:~~

~~104.10.1 Modifications of the strict application of the requirements of the Florida Building Code. The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood resistant construction requirements of the Florida Building~~

~~Code to determine whether such requests require the granting of a variance pursuant to Section 117.~~

~~Sec. 107.6.1, Florida Building Code, Building~~

~~Add a new Sec. 107.6.1 as follows:~~

~~107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.~~

~~Sec. 117, Florida Building Code, Building~~

~~Add a new Sec. 117 as follows:~~

~~117 VARIANCES IN FLOOD HAZARD AREAS~~

~~117.1 Flood hazard areas. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of~~

~~the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.~~

Add an amended Section 107.3.5, Florida Building Code, Building as follows:

Sec. 107.3.5, Florida Building Code, Building

107.3.5 Minimum plan review criteria for buildings.

Commercial Buildings: Building

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), flood damage-resistant materials.

Residential (one- and two-family):

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), equipment, and flood damage-resistant materials.

Sec. 202 ~~Sec. 1612.2~~, Florida Building Code, Building

~~Amend Sec. 1612.2 as follows:~~

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 10-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 "repetitive loss." Accumulated deterioration or decay contributes toward substantial damage.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a one-year ~~five-year~~ period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the one-year ~~five-year~~ period begins on the date when a permit is closed. ~~of the first improvement or repair of that building or structure subsequent to 1986.~~ If the structure has sustained 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 that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Chapter 34, unless the building has been moved or the foundation replaced.

1612.5 Flood hazard documentation. The following documentation shall be signed and sealed ~~by a land surveyor and mapper licensed by the State of Florida,~~ and shall be submitted to and approved by, the Floodplain Administrator:

1. For construction in flood hazard areas other than coastal high hazard areas or coastal A zones ~~not subject to high-velocity wave action:~~

- 1.1. A FEMA Elevation Certificate completed by a Florida licensed professional land surveyor, showing the lowest floor, including basement, as required by the

foundation inspection and the final inspection in Section 110.3.

1.2. For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.7.2.1 ~~2.6.2.1~~, ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.7.2.2 ~~2.6.2.2~~ of ASCE 24, with an engineer's certification.

1.3. For dry, floodproofed, nonresidential buildings, construction documents shall include a ~~statement~~ FEMA Dry Floodproofing Certificate completed by a Florida licensed professional engineer stating that the dry floodproofing is in accordance with ASCE 24 and shall include the flood emergency plan specified in Chapter 6 of ASCE 24.

2. For construction in coastal high hazard areas and coastal A zones ~~flood hazard areas subject to high-velocity wave action:~~

2.1. A FEMA Elevation Certificate completed by a Florida licensed professional land surveyor and mapper, showing the bottom of the lowest horizontal structural

member as required by the foundation inspection and the final inspection in Section 110.3.

2.2. A city V-Zone Certification completed by a Florida licensed professional engineer.

2.3. Construction documents shall include a statement by a Florida licensed professional engineer that the building is designed in accordance with ASCE 24, including that the pile or column foundation and building or structure to be attached thereto is designed to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components, and other load requirements of Chapter 16.

2.4. For breakaway walls designed to resist a nominal load of less than 10 psf (0.48 kN/m²) or more than 20 psf (0.96 kN/m²), construction documents shall include a statement by a Florida licensed professional engineer that the breakaway wall is designed in accordance with ASCE 24.

The Florida Building Code, Existing Building is hereby amended by the following technical amendments.

~~Sec. 202,~~ *SUBSTANTIAL DAMAGE*. For the purpose of determining compliance with the flood provisions of this code, 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 10-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 "repetitive loss." Accumulated deterioration or decay contributes toward substantial damage.

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this code, any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a one-year ~~five-year~~ period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the one-year ~~five-year~~ period begins on the date when a permit is closed. ~~of the first improvement or repair of that building or structure subsequent to 1986.~~ If the structure has sustained 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 that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Chapter 34, unless the building has been moved or the foundation replaced.

Sec. 14-36. Chief building official's office created, duties.

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Sec. 14-37. Building permits; professional plans; display of permits; address; exceptions.

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Sec. 14-38. Minimum floor elevation.

(a) The floor of any habitable residential or commercial building which is erected at any location in the city shall be at least one foot above the crown of the closest street and in no instance less than the elevation required by the Florida Building Code when located in flood hazard areas ~~Floodplain requirements found in Chapter 34, Floods.~~

(b) A total height certificate measured from the crown of the street to the rooftop or ridge shall be submitted prior to issuance of a certificate of occupancy on a new structure or addition.

Sec. 14-39. Hurricane requirements.

(a) A reinforced cast-in-place concrete tie beam shall be placed around the perimeter at each floor and roof level on bearing walls of masonry units. Reinforcing shall not be less than four no. 5 reinforcing bars with no. 3 stirrups at a minimum of 12 inches on-center spacing. Beam size shall not be less than eight inches in width and 12 inches in depth.

(b) In hollow masonry unit construction, all corners shall be cast-in-place concrete and reinforced with five

no. 5 reinforcing bars with no. 3 ties at 12 inches on-center spacing poured solid with concrete. One no. 5 reinforcing bar shall be placed in the voids at the sides of all doors and window openings in hollow masonry units and filled with cast-in-place concrete. Such reinforcing shall be properly tied into the foundation system.

(c) Hurricane strapping or engineered equivalent shall be required from rooftop to foundation creating a complete path of uplift resistance.

(d) Structural design by a Florida Registered Architect or Professional Engineer complying with the FBC will be accepted as compliant with (a), (b) or (c).

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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.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2023.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2023.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2023.

Filed with the Clerk _____, 2023.

Mayor Teri Johnston _____
Vice Mayor Sam Kaufman _____
Commissioner Lissette Carey _____
Commissioner Mary Lou Hoover _____
Commissioner Clayton Lopez _____
Commissioner Billy Wardlow _____
Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK