

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, TO AMEND CHAPTER 122 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED "ZONING", ARTICLE V. ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 3 ENTITLED "AREA REQUIREMENTS", SECTION 122-1143 ENTITLED, "IMPERVIOUS SURFACE REQUIREMENTS FOR ALL USES" TO ALLOW THE WATER SURFACE AREA OF SWIMMING POOLS, PONDS, AND OTHER WATER-FILLED ENCLOSURES TO BE CONSIDERED A PERVIOUS SURFACE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West regulates the percentage of a lot that may be covered by impervious surfaces; and

WHEREAS, Section 122-1143 includes a definition of the term "impervious surface", as well as specific building and/or site features that shall be incorporated into impervious surface ratio calculations; and

WHEREAS, pursuant to the aforementioned Section of Code, bodies of water such as ponds, swimming pools, and other water enclosures are considered an impervious surface and must be calculated as such for impervious surface ratio; and

WHEREAS, the City of Key West finds that water enclosures are easily penetrated and are able to capture and hold storm water that would otherwise saturate the ground or runoff hard surfaces; and

WHEREAS, in accordance with Section 90-522, the Planning Board held a noticed public hearing on January 18, 2024, where based on the consideration of recommendations by the building official, the

Board recommended approval of the proposed amendments through Planning Board Resolution 2024-06; and

WHEREAS, the City Commission 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 ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Chapter 122 of the Land Development Regulations, entitled "Zoning", Article V. entitled "Supplementary District Regulations", Division 3 entitled "Area Requirements", Section 122-1143 entitled, "Impervious Surface Requirements for all uses" is hereby amended as follows:

*(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. 122-1143. - Impervious surface requirements for all uses.

(a) *Definition; scope.* The term "impervious surface" is defined as that

portion of the land which is covered by buildings, pavement, nonporous fill, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface. The areas beneath elevated structures shall not be considered impervious, so long as those areas beneath the elevated structures are maintained fully permeable. Any skirting enclosing crawlspaces must be a fully permeable metal mesh or other material approved by the City Engineer. For the calculation of impervious surface, properties with structures that have overhangs and/or eaves may consider the areas beneath the overhangs and/or eaves, as pervious, so long as these areas remain otherwise free of buildings, pavement, nonporous fill, or other cover through which water cannot penetrate.

(b) *Calculation.* The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area. ~~Waterbodies are impervious and shall be included as such in the ISR calculation.~~ For the purpose of calculating site data on residential properties, seventy-five (75) percent of the water surface area of any uncovered swimming pool, garden pond, or other uncovered water filled enclosure shall be considered a pervious surface.

{ . . . }

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

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~~double struck through~~ at second reading.)

Section 3: 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 4: 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 5: 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 Economic Opportunity, 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 Teri Johnston _____

Vice Mayor Sam Kaufman _____

Commissioner Lisette Carey _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK