

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, TO AMEND CHAPTER 86 OF THE LAND DEVELOPMENT REGULATIONS ENTITLED "GENERAL PROVISIONS", SECTION 86-9 ENTITLED "DEFINITION OF TERMS." IN ORDER TO AMEND THE DEFINITION OF THE TERMS "ACCESSORY STRUCTURE", "BUILDING COVERAGE", "OPEN SPACE (GREEN AREA)", AND "PRINCIPAL STRUCTURE"; TO RENAME AND AMEND CHAPTER 122 ENTITLED "ZONING", ARTICLE V. ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 4 ENTITLED "ACCESSORY USES AND STRUCTURES" TO BE TITLED "ACCESSORY USES, ACCESSORY STRUCTURES, AND OTHER STRUCTURES", SECTION 122-1181 ENTITLED "PERMITTED AND RESTRICTED USES" TO MAINTAIN THE REQUIRED 5' SETBACK FOR DECKING 30" OR GREATER IN HEIGHT; AND TO ADD SECTION 122-1187 ENTITLED "COVERED PATIOS, GAZEBOS, AND OTHER ROOFED STRUCTURES." TO MAINTAIN REAR AND SIDE YARD SETBACK REQUIREMENTS FOR THE CONSTRUCTION OF NON-PRINCIPAL ROOFED STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West regulates the area of a lot that may be obscured by building coverage; and

WHEREAS, Section 86-9 Definition of terms of the Land Development Regulations provides a definition for the term "building coverage"; and

WHEREAS, the adopted definition of "building coverage" is written to include anything built with a fixed location in the ground 30" high or taller, which may be interpreted to include exterior staircases, mechanical equipment, elevated decks, and

various other yard items; and

WHEREAS, this definition of the Land Development Regulations imposes unnecessary and undue hardship to property owners, specifically those who elevate their structure; and

WHEREAS, the City of Key West has determined that it is in the best interest of the public to amend 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; and

WHEREAS, the City of Key West finds that the term "accessory structure" may be interpreted to include yard items such as fencing, decks, and mechanical equipment; and

WHEREAS, the City of Key West finds it more suitable to amend 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, 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 by the building official, the Board recommended approval of the proposed amendments through Planning Board Resolution 2024-___; 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 86 of the Land Development Regulations, entitled "General Provisions", Section 86-9 entitled, "Definition of terms."; Chapter 122 of the Land Development Regulations, entitled "Zoning", Article V. entitled "Supplementary District Regulations", Division 4 with a proposed title "Accessory Uses, Accessory Structures, and Other Structures", and Section 122-

1181 entitled "Permitted and Restricted Uses" is hereby amended*;

and

*(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. 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 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 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 property lines. Erection of tents is

prohibited. Hot tubs, whether fixed or movable, shall be considered accessory structures for the purpose of setbacks.

{ . . . }

Section 2: That Chapter 122 of the Land Development Regulations, entitled "Zoning", Article V. entitled "Supplementary District Regulations", Division 4 with a proposed amended title "Accessory Uses, Accessory Structures, and Other Structures", Section 122-1187 entitled "Covered patios, gazebos, and other roofed structures" is hereby created as follows:

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.

*(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.)

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 Danise Henriquez _____
Vice Mayor Sam Kaufman _____
Commissioner Lissette Carey _____
Commissioner Monica Haskell _____
Commissioner Mary Lou Hoover _____

Commissioner Donie Lee

Commissioner Clayton Lopez

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK