

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 SEVENTY-FIVE PERCENT (75%) OF THE WATER SURFACE AREA OF AN UNCOVERED WATER-RETAINING FEATURE ON RESIDENTIAL PROPERTIES TO BE CONSIDERED A PERVIOUS SURFACE, SUBJECT TO FREEBOARD REQUIREMENTS; 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 retaining features such as swimming pools or garden ponds are easily penetrated and are able to capture and hold storm water that would otherwise saturate the ground or runoff hard surfaces; and

**WHEREAS**, the City of Key West finds it appropriate to exclude

seventy-five percent (75%) of the uncovered water surface area of such site improvements from the impervious surface ratio calculation, so long as the water-retaining feature has appropriate freeboard; 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:

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\*(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 typically considered impervious and shall be included as such in ISR the calculation. Nonetheless, for residential properties, seventy-five percent (75%) of the water surface area of an

uncovered swimming pool, garden pond, or other water retaining feature with at least six (6) inches of freeboard shall be calculated as a pervious surface; freeboard of a swimming pool shall be measured from the top of the skimmer to the bottom of the coping.

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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 \_\_\_\_\_

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DANISE HENRIQUEZ, MAYOR

ATTEST:

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KERI O'BRIEN, CITY CLERK