

ORDINANCE NO. 74-17

AN ORDINANCE REGULATING DEVELOPMENT WITHIN FLOOD HAZARD DISTRICTS WITHIN THE CITY OF KEY WEST, FLORIDA; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; PROVIDING DEFINITIONS; REQUIRING BUILDING PERMITS WITHIN COASTAL FLOOD HAZARD DISTRICTS; PROVIDING FOR REVIEW OF BUILDING PERMITS, SUBDIVISION PROPOSALS AND WATER AND SEWER SYSTEMS TO INSURE PROTECTION FROM FLOOD DAMAGE; SETTING STANDARDS FOR DEVELOPMENT WITHIN COASTAL FLOOD HAZARD DISTRICTS; PROVIDING FOR CITY WIDE APPLICATION; PROVIDING FOR ENFORCEMENT; PROVIDING RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES; PROVIDING RULES FOR INTERPRETATION; PROVIDING FOR VARIANCES AND ESTABLISHING A VARIANCE PROCEDURE; GIVING WARNING AND DISCLAIMER OF LIABILITY; PROVIDING FOR SEVERABILITY; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE

BE IT ENACTED by the City Commission of the City of Key West, Florida:

Section 1. Statement of legislative intent. The coastal areas of Key West, Florida, are subject to flooding resulting in danger to life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. The City Commissioners of the City of Key West, Florida, by Resolution No. 72-127, adopted on October 2, 1972, expressed willingness to take action necessary to meet the objectives of the National Flood Insurance Act of 1968 within Key West, Florida; and by Resolution No. 74-80 adopted June 3, 1974, reaffirmed its interest in securing flood insurance coverage under said act. In June of 1970, the Federal Insurance Administration declared the entire area of the City of Key West eligible for Federally assisted flood insurance, which insurance will mitigate the effects of damages from such natural disasters as hurricanes and severe storms and their attendant flooding. On August 2, 1972, this eligibility for participation by the City of

Key West in the National Flood Insurance Program was cancelled because of failure by the City of Key West to adopt adequate land use and control regulations in accordance with the regulations of the National Flood Insurance Program. This ordinance is adopted to insure reinstatement of said flood insurance; to comply with Federally imposed requirements; and to protect the public health, safety and general welfare, by minimizing flood losses in the flood areas of Key West.

Section 2. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

(a) "Special Flood Hazard District", (hereinafter referred to as SFH District), means those portions of Key West subject to flooding or erosion from abnormally high tidal waters and wave velocities resulting from severe storms or hurricanes. Said SFH District shall be comprised of those areas designated A1 and V1 upon the official Flood Hazard Boundary Map issued and approved by the Federal Insurance Administrator dated June 19, 1970, and No. H-12-087-1580-02 and 03 and as the same may, from time to time, be amended by the Federal Insurance Administrator.

(b) "General Flood Hazard District" (hereinafter referred to as GFH District) means that portion of Key West comprised of those areas designated B1 upon the official Flood Hazard Boundary Map issued and approved by the Federal Insurance Administrator dated June 19, 1970, and No. H-12-087-1580-02 and 03 and as the same may, from time to time, be amended by the Federal Insurance Administrator.

(c) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tsunamis.

(d) "Floodproofing" means structural and nonstructural additions, changes, or adjustments (other than elevating) to structures and utilities which reduce or eliminate flood damage to water supply and sanitary sewage facilities, structures and contents of buildings, and includes, by way of illustration, not

limitation, the following measures:

1. Anchorage to resist flotation and lateral movement.
2. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction to protect against winds, wave action, or flood waters.
3. Reinforcement of walls to resist water pressures.
4. Use of paints, membranes, or mortars to reduce seepage of water through walls.
5. Addition of mass or weight to structures to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. Construction of water supply and waste water treatment and disposal systems so as to prevent or minimize infiltration of flood waters.
8. Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
9. Construction to resist rupture or collapse caused by water pressure on floating debris.
10. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.
11. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.
12. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately floodproofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

(e) "Regulatory flood" (also herein referred to as the 100 year flood) means the level of flooding that, on the average, is likely to be equaled or exceeded once in any 100-year period, i.e. that has a one-percent chance of occurring in any year. (This level of flooding for the City of Key West has been established per the Flood Insurance Administration flood hazard boundary map, dated June 19, 1970, as eight feet above mean sea level.)

*Amended
9-8-1*

(f) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

(g) "Structure" means anything constructed or erected the use of which requires rigid location on the ground, or attachment to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks, etc.

(h) "Accessory building" means a secondary residence, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building. An accessory building may include servant's quarters unless prohibited by existing deed restrictions.

(i) "Residential" The term "residential" or "residence" is applied herein to any lot, plot, parcel, tract, area or piece of land or any building used exclusively for family dwelling purposes or intended to be so used.

(j) "Basement" means that portion of a building between floor and ceiling, which is so located that one-half or more of the clear height from floor to ceiling is below grade.

Section 3. Development in either SFH or GFH Districts. The City or municipal official responsible for the administration and enforcement of this ordinance shall to the extent not otherwise prohibited by Sections 4 and 5, with respect to development within SFH and GFH Districts:

1. Require building permits for all proposed construction or other improvements within said districts; and
2. Review building permit applications for repairs within said districts to determine that the proposed repair (i) uses construction materials and utility equipment that are resistant to flood damage and (ii) used construction methods and practices that will minimize flood damages; and
3. Review building permit applications for new construction or substantial improvements within said

districts to assure that the proposed construction (including prefabricated and mobile homes) (i) is protected against flood damage, (ii) is designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure, (iii) uses construction materials and utility equipment that are resistant to flood damage, and also uses construction methods and practices that will minimize flood damage; and

4. Review subdivision proposals and other proposed new developments to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, or constructed to minimize or eliminate flood damage, and, (iii) adequate drainage is provided so as to reduce exposure to flood hazards; and
5. Require new or replacement water supply systems and treatment plants and sanitary sewage plants and systems to be designed to minimize or eliminate infiltration of flood waters into the systems and plants and discharges from the systems and plants into flood waters, and require onsite waste water disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

Section 4. Development within SFH Districts.



(a) Existing uses located on land in an SFH District which is below the elevation of the regulatory flood shall not be expanded and no building permit referred to in Section 3 of this Ordinance may be issued therefor unless the provisions of subsection (b) hereof are complied with; however, this shall not preclude routine maintenance of existing structures or improvements thereto which are less than substantial improvements, as herein defined, which do not increase the physical size of said structure.



(b) No new construction or substantial improvement shall be undertaken and no building permit referred to in Section 3 may be issued therefor upon any lands within SFH Districts which are below the level of the regulatory flood unless said new construction or substantial improvement (i) is located landward of the reach of the mean high tide; and (ii) is elevated on adequately anchored piles or columns to a lowest floor level at or above the regulatory flood level and securely anchored to such piles or columns; and (iii) has no basement and has the space below the lowest floor free of obstructions so that the impact of abnormally high tides or wind driven water is minimized.

Section 5. Development within GFH Districts.

(a) No new construction or substantial improvement of any residential structure shall be permitted in GFH Districts, and no building permit referred to in Section 3 of this Ordinance shall be issued therefor, unless said new construction or substantial improvement has the lowest floor (including basement) elevated to or above the level of the regulatory flood (100-year flood).

(b) No new construction or substantial improvement of any nonresidential structure shall be permitted in GFH Districts, and no building permit referred to in Section 3 of this ordinance shall be issued therefor, unless said new construction or substantial improvement has the lowest floor (including basement) elevated to or above the level of the regulatory flood (100-year flood), or if the lowest permitted floor level of such nonresidential structure (including basement) is below the regulatory flood level then such nonresidential structure together with attendant utility and sanitary facilities shall be floodproofed up to the level of the regulatory flood; (provided that the lowest floor level of such nonresidential structure (including basement) shall be no more than 10 feet below the regulatory flood level.)

Section 6. Accessory Buildings. Nothing herein shall be construed to exclude accessory buildings from the provisions of this ordinance.

Section 7. Application of Chapter.

✓ (a) This chapter shall apply to and be enforced in all the incorporated areas of the City of Key West, Florida.

(b) Those maps referred to in Section 2(a) and (b) together with all explanatory matter thereof are hereby adopted by reference and are declared to be part of this ordinance; and shall be kept on file, available to the public, in the offices of the Public Service Department.

Section 8. Enforcement. The Director of Public Service shall administer and enforce this ordinance.

Section 9. Rules for Interpreting District Boundaries.

The boundaries of the flood hazard districts shown on the Official Flood Hazard Boundary Maps may be determined by scaling distances. Required interpretations of those maps for precise locations of said boundaries shall be made by the Director of Public Service Department. Said interpretations shall be subject to review in accordance with Chapter 32 of the Code of Key West, Florida, as it pertains to appeals of administrative decisions of the director.

✓ Section 10. This ordinance shall supersede any conflicting ordinance, building code or any other regulation to the extent that this ordinance imposes more stringent requirements for the use or development of any lands or structures within SFH or GFH Districts. It is not intended to repeal, modify, or change any ordinance, building code, or other regulation except as herein stated.

Section 11. Interpretation. The provisions of this ordinance shall be liberally construed in favor of the City of Key West in order to effectuate the purposes herein stated.

✓ Section 12. Variances.

(a) Authority of the Zoning Appeals Board. The Zoning Appeals Board established by Chapter 32, Code of Key West, shall have the authority and duty to consider and act upon applications for a variance from these regulations. Such Board is admonished that in granting any variances hereunder, it must consider the purposes of the National Flood Insurance Program, as specified in Title 24, Code of Federal Regulations, Chapter 10, subchapter B, Parts 1909, et seq. Further, such Board shall consider the fact that an annual report on variances granted must be submitted to the National Flood Insurance Administration, which report is the basis for continued availability of flood insurance to the inhabitants of Monroe County, and therefore, variances should be granted with extreme caution.

(b) The Board may grant variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the

provisions hereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done: provided that the variance will be in harmony with the general purpose and intent of this ordinance and that the same is the minimum variance that will permit the reasonable use of the premises.

(c) Conditions, restrictions and limitations. In granting any variance, the Zoning Appeals Board may prescribe any reasonable conditions, restrictions and limitations that it deems necessary or desirable.

(d) Review and appeal. Review and appeal of any such Zoning Appeals Board decision shall be as prescribed in Chapter 32, Code of Key West, as it pertains to appeals of Zoning Appeals Board decisions.

Section 13. Warning and Disclaimer of Liability. The degree of flood protection required herein is considered reasonable for regulatory purposes and is based on scientific studies. Larger floods may occur. This ordinance shall not be deemed to imply that areas inside or outside designated flood hazard districts will be entirely free from flooding or flood damages, and shall not create liability on the part of Key West or any officer or employee thereof for any flood damages that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 14. Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of said ordinance shall not be affected thereby.

Section 15. Penalties for Violation.

(a) Willful violations of the provisions of this ordinance or failure to comply with any requirements hereunder (including violations of conditions established in connection with any variances) shall constitute a misdemeanor, punishable by fine of not more than \$500 or imprisonment for not more than 60 days or both. Each day such violations continues shall be considered as a separate offense.

(b) Notwithstanding the provisions of subsection (a) above, the official responsible for the enforcement of the provisions of this ordinance may secure enforcement hereof by any legal action necessary, such as application to any court for injunctive relief, revocation of any building permit issued hereunder or other appropriate means.

→ Section 16. It is the intention of the City Commissioners and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Key West, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word 'ordinance' may be changed to 'section', 'article', or other appropriate word.

Section 17. Provisions of this ordinance shall not apply to those buildings for which a building permit has been issued and is in effect or for which proper and complete applications and plans have been submitted for building permits on or before the effective date of this ordinance provided that the construction under the permit shall be commenced and progressively carried to a conclusion within the time limitations for permits established by the Building Code.

Section 18. 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 publication thereof one time in a newspaper of general circulation published in the City of Key West, Florida.

Section 19. All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Read and passed on first reading at a regular meeting held JUNE 17, A.D. 1974.

Read and passed on final reading at a regular meeting held AUGUST 5, A.D. 1974.

ATTEST:

CITY CLERK

MAYOR

**NOTICE OF ADOPTION
OF ORDINANCE**

THE FOLLOWING ORDINANCE WAS
ADOPTED BY THE CITY COM-
MISSION OF THE CITY OF KEY WEST
AT A REGULAR MEETING HELD
MONDAY, AUGUST 5, 1974, AT CITY
HALL:

ORDINANCE NO. 74-17

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DEVELOPMENT WITHIN FLOOD
HAZARD DISTRICTS WITHIN THE
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PROVIDING A STATEMENT OF
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COASTAL FLOOD HAZARD
DISTRICTS; PROVIDING FOR
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SUBDIVISION PROPOSALS AND
WATER AND SEWER SYSTEMS TO
INSURE PROTECTION FROM FLOOD
DAMAGE; SETTING STANDARDS
FOR DEVELOPMENT WITHIN
COASTAL FLOOD HAZARD
DISTRICTS; PROVIDING FOR CITY
WIDE APPLICATION; PROVIDING
FOR ENFORCEMENT; PROVIDING
RULES FOR INTERPRETATION OF
DISTRICT BOUNDARIES;
PROVIDING RULES FOR IN-
TERPRETATION; PROVIDING FOR
VARIANCES AND ESTABLISHING A
VARIANCE PROCEDURE; GIVING
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LIABILITY; PROVIDING FOR
SEVERABILITY; PROVIDING
PENALTIES FOR VIOLATIONS;
PROVIDING FOR INCLUSION IN THE
CODE; AND PROVIDING AN EF-
FECTIVE DATE.

THIS ORDINANCE MAY BE READ IN
ITS ENTIRETY AT THE CITY
CLERK'S OFFICE IN CITY HALL,
MONDAY THROUGH FRIDAY,
BETWEEN THE HOURS OF 9:00 A.M.
AND 5:00 P.M.

Jack F. Mathews,
City Clerk.

February 28, 1977