ORDINANCE NO. 12-31

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, ADDRESSING THE COMPATIBILITY OF LANDS ADJACENT TO OR CLOSELY PROXIMATE TO MILITARY INSTALLATIONS IN THE FUTURE LAND USE ELEMENT IN THE CITY OF KEY WEST COMPREHENSIVE PLAN; REVISING POLICY 1-3.9.1, AND CREATING POLICY 1-3.9.2, POLICY 1-3.9.3, POLICY 1-3.9.4, POLICY 1-3.9.5, POLICY 1-3.9.6, AND POLICY 1-3.9.7; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE CITY OF KEY WEST COMPREHENSIVE PLAN.

WHEREAS, Sections 163.3175, and 163.3177, Florida Statutes (F.S.), require local governments to address compatibility of development with military installations and require the exchange of information between local governments and military installations; and

WHEREAS, Sections 163.3175, and 163.3177, F.S. require the adoption of criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations within the Future Land Use plan element by June 30, 2012. A local government that does not address compatibility of land proximate to an existing military installation in the Future Land Use plan element by June 30, 2012 shall enter into mediation. Mediation would include representatives from the Naval Air Station Key West, the City of Key West, the State Land Planning Agency, the South Florida Regional Planning Council, and potentially other private land owners; and

WHEREAS, if a local government comprehensive plan does not contain criteria addressing

compatibility by December 31, 2013, the State Land Planning Agency may notify the Administration Commission, which may impose sanctions pursuant to Section 163.3184(8), F.S., including the direction to state agencies to not provide funds to increase the capacity of roads, bridges, or water and sewer systems for those local governments with plan amendments determined not to be in compliance. The Administration Commission may also specify that the local government is not eligible for grants under the following programs: Florida Small Cities Community Block Grant Programs; Florida Recreation Development Assistance Program, and revenue sharing. If the local government has a Coastal Management Element, the Administration Commission may also specify that the local government is not eligible for funding pursuant to s. 161.091, F.S., regarding beach management and maintenance funding; and

WHEREAS, City staff, in conjunction with representatives of Naval Air Station Key West have collaborated on various policies and standards to address military compatibility within the City of Key West Comprehensive Plan; and

WHEREAS, the proposed amendment implements the requirements of Sections 163.3175 and 163.3177, F.S., which require a local government to address the compatibility of uses on lands adjacent to or closely proximate to military installations and require the exchange of information between a local government and a military installation; and

WHEREAS, the proposed amendment is internally consistent with the City of Key West Comprehensive Plan; and

WHEREAS, the proposed amendment is consistent with the Principles of Guiding Development for the City of Key West, Rule 28-36.003, Florida Administrative Code (F.A.C.); and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA:

Section 1: The City of Key West Comprehensive Plan is amended as follows: (Deletions are ~~stricken through~~ and additions are underlined.)

Policy 1-3.9.1 Implementing Intergovernmental Coordination

The City of Key West shall require that development applications be coordinated, as appropriate, with Monroe County, the Monroe County School Board, other special districts, the South Florida Regional Planning Council (SFRPC), the South Florida Water Management District, United States Naval Air Station Key West, as well as applicable State and Federal agencies prior to issuance of a development order or permit. The City shall coordinate with the SFRPC in meeting regional policies contained in the Regional Plan for South Florida. The City shall establish a multi-agency review during the site plan review process for all large scale developments. The powers of the multi-agency review team shall be advisory to the City of Key West Planning Board.

Policy 1-3.9.2

The City of Key West shall promote and encourage the compatibility of lands adjacent to or closely proximate to military installations within the corporate City limits. The City of Key West shall exchange relevant information to achieve compatible land uses.

Policy 1-3.9.3

The City of Key West shall transmit to the commanding officer of Naval Air Station Key West information relating to proposed changes to comprehensive plans, plan amendments,

Future Land Use amendments, and proposed changes to Land Development Regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the Naval Air Station Key West.

Policy 1-3.9.4

Within 30 days of the date of receipt from the City of Key West of proposed changes, the Naval Air Station Key West commanding officer or his or her designee may provide comments to the City on the impact proposed changes may have on the mission of the military installation. The City of Key West shall forward any comments regarding Comprehensive Plan Amendments or Land Development Regulation amendments to the State Land Planning Agency. The City shall take into consideration any comments provided by the Naval Air Station Key West commanding officer or his or her designee and shall also be sensitive to private property rights and not be unduly restrictive of those rights.

Policy 1-3.9.5

The City of Key West shall include a representative of Naval Air Station Key West as an ex-officio, nonvoting member of the City of Key West Planning Board.

Policy 1-3.9.6

The City of Key West shall notify the Naval Air Station Key West commanding officer or his or her designee of any development proposals that are scheduled for the City of Key West Development Review Committee (DRC) at the earliest date possible. The City of Key West shall include a representative of Naval Air Station Key West as an ex-officio, nonvoting member of the DRC. Naval Air Station Key West may provide comments on proposals to the DRC.

Policy 1-3.9.7

The City shall acknowledge the Encroachment Challenges Synopsis provided by the Naval Air Station Key West, and adopt the 2007 Air Installations Compatible Use Zones (AICUZ) Study by reference and when subsequent updates to the Study are published, the City will update the Comprehensive Plan by amendment.

The Encroachment Challenges Synopsis identifies potential impacts as follows:

1. Urban Development (population growth);
2. Airborne noise;
3. Competition for air space, land, and sea space;
4. Competition for scarce resources;
5. Threatened and endangered species;
6. Maritime issues;
7. Ordnance- Unexploded Ordnance (UXO)/Munitions;
8. Safety Arcs and footprints (Explosive Safety Quantity Distance (ESQD) Arcs, Surface Danger Zones, Weapons Safety Footprint Areas;
9. Frequency Spectrum;
10. Air Quality;
11. Water Quality;
12. Interpretation of Historical/Environmental regulations;
13. Interagency Coordination; and
14. Legislative Initiatives.

The City shall adopt into the Land Development Regulations encroachment compatibility factors based upon the Encroachment Challenges Synopsis as well as the 2007 AICUZ Study. These encroachment protection criteria shall be reviewed when proposed

development, redevelopment, changes of use, intensification of density or intensity, expansion, legislative changes, or other land use proposals adjacent or proximate to military installations are being considered by the City.

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 there from 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 be transmitted by the Director of the Planning Department to the State Land Planning Agency pursuant to Chapter 163 and 380, (F.S.).

Section 5: This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding the amendment is in compliance with Chapter 163, (F.S.), and after any applicable appeal periods have expired.

Section 6: The numbering of the forgoing amendment may be renumbered to conform to the numbering of the City of Key West Comprehensive Plan and shall be incorporated in the City of Key West Comprehensive Plan.

Read and passed on first reading at a regular meeting held this 20 day of March , 2012.

Read and passed on final reading at a regular meeting held this 18 day of September , 2012.

Authenticated by the presiding officer and Clerk of the Commission on 19 day of September, 2012.

Filed with the Clerk September 19, 2012.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)