STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF KEY WEST,
FLORIDA, ORDINANCE NO. 15-07

FINAL ORDER
APPROVING CITY OF KEY WEST ORDINANCE NO. 15-07

The Department of Economic Opportunity ("Department") hereby issues its Final Order, pursuant to § 380.05(6), Florida Statutes, approving land development regulations adopted by City of Key West, Florida, Ordinance No. 15-07 (the "Ordinance").

FINDINGS OF FACT

1. The City of Key West is designated by Chapter 28-36, Florida Administrative Code, and pursuant to §380.05, Florida Statutes, as an area of critical state concern.

2. The Ordinance was adopted by Key West on April 8, 2015, and rendered to the Department on May 18, 2015.

3. The Ordinance amends Chapter 122, Article V, Division 3, Section 122-1149 of the Land Development Regulations of the Code of Ordinances and allows buildings to exceed the building height regulations up to a maximum of four (4) feet above the base flood elevation to meet or exceed FEMA standards.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. § 380.05(6), Florida Statutes.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

6. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. § 380.05(6), Florida Statutes. The Principles for Guiding Development for the City of Key West is set forth in Rule 28-36.003, Florida Administrative Code.

7. The Ordinance is consistent with the Key West Comprehensive Plan generally, and specifically with Policy 1-1.1.14 (Prepare for Sea Level Rise) and Policy 6-1.3.1 (Enforce Policies to Maintain Floodplain).

8. The Ordinance is consistent with the Principles for Guiding Development in Rule 28-36.003, as a whole, and is specifically consistent with the following Principles:

> (a) Strengthen local government capabilities for managing land use and development;
>
> (h) Protection of the public health, safety, welfare, and economy of the City of Key West, and the maintenance of Key West as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that City of Key West Ordinance No. 15-07 is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.

William B. Killingsworth, Director
Division of Community Development
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX 850-921-3230

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 9th day of July, 2015.

Katie Zimmer, Agency Clerk
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128

By Certified U.S. Mail:

Honorable Craig Cates
Mayor, City of Key West
3126 Flagler Ave.
Key West, FL 33040

Thaddeus Cohen, Director
Planning and Zoning Department
City of Key West
3140 Flagler Ave.
Key West, FL 33040

Cheri Smith, Clerk
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