



Draft April 15, 2018

PLANNING AND SUBDIVISION ACT, 2010  
(No. 4 of 2010)

PLANNING AND SUBDIVISION ACT 2010  
LYFORD CAY (ZONING) ORDER No. 1 of 2018

The Minister in exercise of the powers conferred by Section 24 of the Planning and Subdivision Act, 2010 makes the following Zoning Order.

**1. Citation.**

This Order may be cited as the Lyford Cay Zoning Order No.1.

**2. Interpretation**

In this Order:

**“accessory structure”** means a structure or building the use of which is incidental and secondary to the principal structure or building on the same parcel or lot and “accessory structures” shall be construed accordingly;

**“accessory use”** means a use which is incidental and secondary to the use of the principal structure or building on the same parcel or lot;

**“density”** means the maximum number of dwelling units permitted on a lot or unit of property and where specifically used shall refer to the prescribed maximum number of dwelling units permitted for the specific subdivision or lot or unit of property;

**“dwelling house”** means one or more buildings or structures collectively providing complete living facilities for a single family including permanent provisions for living, cooking, eating, and sanitation; and appropriate accessory structures including rooms for accommodation of guests, staff quarters, garages, or combined garage and apartment;

**“duplex house or multi-unit complex”** means one or more buildings or structures collectively providing complete living facilities for two or more families including permanent provisions for living, cooking, eating, and sanitation and appropriate accessory structures including rooms for accommodation of guests, staff quarters, garages, or combined garage and apartment;

**“excavation”** shall have the meaning ascribed to it under Section 2 of the Conservation and Protection of The Physical Landscape of the Bahamas Act;

**“floor area”** means (1) where a minimum floor area is specified in any Restrictive Covenant affecting the relevant parcel of land, the total gross area within the external perimeter of the exterior enclosing walls, of the relevant storey of the building including sun rooms and utility rooms, which are fully enclosed, and but excluding other utility rooms, enclosed porches, terraces, or breezeways, and carports or garages (whether or not accessible from the interior). Or (2) for non-residential buildings, the total floor area shall include the total floor area within the exterior enclosing walls, including interior

partitions and tenant separation walls and including the floor area of upper mezzanines, lofts, and second storeys shall be included, provided the ceiling height of such areas is at least seven and one half (7.5) feet and such areas are designed for habitation;

**“legal non-conforming use”** means the use of any land, building or structure, including that lawfully under construction or for which a building permit is in effect, that is not permitted by existing zoning, if such use existed on the day that any applicable Zoning Order was made;

**“Local Study Area”** shall have the meaning ascribed to it under Section 22 of the Planning and Subdivision Act;

**“lot line”** means the boundary that legally and geometrically demarcates a parcel or lot;

**“Lyford Cay”** means the geographical area of land situate in the Western District of the Island of New Providence and more particularly described in the First Schedule and on PLAN 1;

**“Lyford Cay Guidelines & Regulations”** means the document prepared for or by the Lyford Cay Property Owners Association and as amended from time to time and containing building and site planning standards to guide development in Lyford Cay;

**“Lyford Cay Property Owners Association”** means The Lyford Cay Property Owners Association (1971) Limited;

**“PLAN”** or “plan” means that one of the five plans annexed to this Order (and respectively marked ‘PLAN 1’, ‘PLAN 2’, ‘PLAN 3’, ‘PLAN 4’, ‘PLAN 5’) which bears the number referred in the provision;

**“Section”** means a section in this Order save where otherwise expressly mentioned;

**“Severance”** shall have the meaning ascribed to it by Section 4 of the Planning and Subdivision Act;

**“setback”** means the horizontal distance measured perpendicularly from any portion of a building or structure to the lot line of the relevant parcel or lot which must be clear of any structures and projections;

**“storey”** means a habitable area of a building horizontally enclosed by the external walls of the building, with a vertical clearance between the floor and ceiling of at least seven and one-half (7.5) feet. Any upper storey which does not exceed one-half of the floor area of the storey immediately below it shall not be considered a storey except for determining the height of a residential building. For the purposes of determining the height of a residential building, a storey shall be considered to be every ten (10) feet in height of a building height above first floor level measured from the exterior elevation. For structures that are not residential buildings or an accessory structure to a dwelling house, each ten (10) feet in height of the structure above the established grade of the land shall be deemed one storey;

**“the Act”** means the Planning and Subdivision Act, 2010;

**“the Schedule”** means the schedule to this Order bearing the number referenced in the provision;

**“tract of land”, “severance”, “subdivision” and “building”** have the respective meanings currently ascribed to them in Section 4 of the Act unless the context otherwise requires;

**“variance”** means any modification of or deviation from the regulation of this Zoning Order or any other Zoning Order in force from time to time which may be authorized and approved in writing by the LCPOA in circumstances where the LCPOA in its opinion determines that the literal application of the provisions of such Order would cause such unnecessary and severe hardship or practical difficulty in the use or development of a specific plot or building as to warrant such modification or deviation;

3. This Zoning Order shall apply to all land within Lyford Cay and in this Order references to a lot, estate, parcel or other tract of land shall mean a lot, estate, parcel or other tract of land within Lyford Cay; as delineated and described in the First Schedule and on PLAN 1.
4. It is hereby ordered that new buildings shall be permitted upon those parcels shown and denoted as ‘single-family residences’ (SFR) (shaded) on PLAN 2 only for use as a single family residence or dwelling house and must comply with the setbacks and building heights specified in the Fifth Schedule PROVIDED ALWAYS that nothing herein shall be deemed to restrict the building of one single family residence or dwelling house on more than one lot with the prior consent in writing of the Lyford Cay Property Owners Association.
5. It is hereby ordered that new buildings shall be permitted upon those ten parcels shown and denoted as ‘Multi-family Residential Use’ (MF) (shaded) and respectively identified on PLAN 3 by the annotations (‘MF-1’ through ‘MF-10’) and described in the Second Schedule for Multi-family residential use, subject to building height, density, setback and parking requirements set out in the Fifth Schedule.
6. It is hereby ordered that non-conforming uses shall be permitted upon those parcels shown and denoted as ‘Lyford Cay POA (POA)’, ‘Lyford Cay Sothebey’s International Realty’, ‘Lyford Cay Club (PC)’, ‘The Church of Saint Christopher (CH)’, and ‘Lyford Cay International School (SCH)’ on PLAN 4 and described in the Third Schedule which are consistent with the uses of each such parcel set forth in the Third Schedule.
7. It is hereby ordered that except for the parcels to which Section 5 and Section 6 relate whether currently in existence or not shall be used for any purpose other than one single family residence or dwelling house and in particular (but not by way of limitation) no tract of land or building thereon shall be used (i) for the purpose of any trade manufacturing business or commercial undertaking including the business of a guest-house, boarding-house time-share unit club, or hotel/resort facilities or (ii) as a duplex house or multi-unit complex, apartment house, hotel, condominium building or other buildings in occupation by more than one family with guests and staff. Further, no temporary building of any kind shall be built on any tract of land except sheds or workshops to be used only for the works incidental to the erection of any permanent

- building thereon and then only with the prior consent in writing of the Lyford Cay Property Owners Association.
8. It is hereby ordered that the parcels shown and denoted as 'Local Study Areas' (LSA) on PLAN 5 and respectively identified on PLAN 5 by the annotations 'LS-1', 'LSA-2', 'LSA-3', and 'LSA-4' and described in the Fourth Schedule each be designated a Local Study Area pursuant to Section 22 of the Act and developed only in such manor as may be approved in writing by the Lyford Cay Property Owners Association and the respective planning authorities and procedures under the Act.
  9. It is hereby ordered that no existing tract of land (whether an existing lot, estate, parcel or other area) shall be subdivided or its boundary lines changed or altered or rights of way or easements granted or created to create or effect the division of any lot or parcel into lots or parcels of less than Two (2) acres in size or, if coastal, with less than ninety feet (90-feet) along the sea and with perpendicular and parallel boundary lines, ninety feet apart (90-feet) running continuously to a roadway within Lyford Cay without the prior consent in writing of the Lyford Cay Property Owners Association (and then only with prior **Severance Approval** pursuant to the Act) PROVIDED THAT nothing herein shall be deemed to prohibit the division or subdividing of a lot or parcel for the purpose of enlarging the adjacent lots or parcels with the prior consent in writing of the Lyford Cay Property Owners Association (and then only with prior severance approval pursuant to the Act).
  10. It is hereby ordered that the Lyford Cay Guidelines & Regulations (as the same may be amended from time to time), be adopted as the principal design code to guide development in Lyford Cay provided that the same are ratified by the majority support of Members of the Lyford Cay Property Owners Association.
  11. It is hereby ordered that the existing legal non-conforming and proposed uses described in the Second Schedule shall occur and be governed in accordance with Section 26 of the Act and as specified in the Third Schedule and no change shall be permitted without the prior consent in writing of the Lyford Cay Property Owners Association.

## **FIRST SCHEDULE**

ALL THAT part of the Western District of the Island of New Providence shown on PLAN 1 and comprising the original Cay or island which historically was known as Simms Cay or Lyford Cay and is now joined by an isthmus to the mainland of New Providence and the other parcels of land lying within the outer perimeter boundary shown on PLAN 1 portions of which were laid out and developed as the 'Lyford Cay Club' and as residential communities and all of which is now commonly known as 'Lyford Cay' and which said Lyford Cay is bounded on the North by the Atlantic Ocean on the Northwest by the Sea at Clifton Bay on the South and Southeast by the main Western Road and on the East partly by the main Western Road and partly by various parcels of land thought to be the property of New Providence Development Company Limited, the Lyford Cay Hospital, The Mosko Group, The Holowesko Fund and others and partly by the Islands at Old Fort Development.

## **SECOND SCHEDULE**

Ten (10) pieces parcels or lots of land including the following existing multi-family complexes with the following names and number of units:

MF-1	Lyford Cay Mews	- 8 units
MF-2	Lyford Cay Flats	- 8 units
MF-3	Lyford Cay Suites Association	- 12 units
MF-4	Lyford Cay Marina Residences	- 10 units
MF-5	Lyford Place Villas	- 9 units
MF-6	Canal View Condominiums	- 8 units
MF-7	Greenway Condominiums	- 8 units
MF-8	Tree Tops Condominiums	- 8 units
MF-9	Blue Skies	- 5 units
MF-10	Sunnyside Estates Condominiums	- 21 units

## **THIRD SCHEDULE**

### **PART ONE**

'Lyford Cay Club Properties (PC)' Site shown and shaded on PLAN 4: ALL THOSE pieces parcels or tracts of land owned by the Lyford Cay Members Club Limited and including in particular (but not by way of limitation) the main Lyford Cay Club including the Little Club the swimming pool and cabanas the Club's cottage colony and beach areas, the Golf Course, the main Lyford Cay Harbour and Marina, the Yacht Club and Captain's Beach area and other minor parcels held for future amenity development.

### **PART TWO**

'Church of St. Christopher Property (CH)' Site shown and shaded on PLAN 4: ALL THAT piece parcel or tract of land known as 'The Church of St. Christopher' owned by the Anglican Diocese of The Bahamas and PROVIDED THAT no additional buildings or development shall be permitted on such tract of land save by way of replacement or restoration of the existing building by a building of similar size ambience and appearance and then only as may be approved in writing by the Lyford Cay Property Owners Association AND PROVIDED FURTHER that such tract of land shall only be used as a place of Worship and not for any other purpose shown and shaded on PLAN 4.

**PART THREE**

‘Lyford Cay POA (POA)’ Site shown and shaded on PLAN 4 collectively with ALL THOSE pieces parcels or tracts of land from time to time owned by The Lyford Cay Property Owners Association (1971) Limited and including without limitation the canals lying westward of the Lyford Cay Club Marina.

**PART FOUR**

‘Lyford Cay International School (SCH)’ Site shown and shaded on PLAN 4: ALL THOSE pieces parcels or tracts of land and the buildings thereon currently known as “Lyford Cay International School” and PROVIDED THAT no additional buildings or developments shall be permitted on the said tract of land save by way of replacement or restoration of an existing building by a building of similar size ambience and appearance and then only as may be approved in writing by the Lyford Cay Property Owners Association AND PROVIDED FURTHER that such pieces parcels or tracts of land and buildings shall only be used as a school and for purposes incidental to such use and not for any other purpose.

**PART FIVE**

‘Lyford Cay Sotheby’s International Realty (C)’ Site shown and shaded on PLAN 4: ALL THOSE pieces and parcels of land currently used as a real estate agency by Lyford Cay Sotheby’s International Realty.

**FOURTH SCHEDULE**

This schedule describes the parcels designated as a Local Study Area pursuant to Section 8.

**PART ONE**

Description of the lands shown on PLAN 5 and identified thereon by the annotation ‘LSA-1’: ALL THOSE pieces parcels or tracts of land comprising 39.77 acres more or less originally platted as forming part of the Number One (1) Subdivision of Lyford Cay according to a Plan prepared by Peterson, Ryder and Darlow at the instance of The Lyford Cay Company Limited and filed in the Department of Lands and Surveys in the Island of New Providence aforesaid as Number 335 N.P. and the layout of which was subsequently amended by the addition to the said Subdivision of Block Number Thirty-three (33) thereof as shown on an amended plan of the said Subdivision filed in the Department of Lands and Surveys aforesaid as Number 395 N.P. but never fully laid out on the ground and developed and which said pieces parcels or tracts of land being hereby described are bounded on the NORTH by a strip of land the property of the Lyford Cay Property Owners Association and shown on the diagram or plan attached to an Indenture of Conveyance made the 12<sup>th</sup> day of July, 1977 between the before-mentioned The Lyford Cay Company Limited of the one part and the Lyford Cay Property Owners Association of the other part and recorded in the Registry of Records in Book 2794 at pages 1 to 9 separating the pieces parcels or tracts of land being hereby described from the developed portion of the said Number One (1) Subdivision of Lyford Cay on the EAST by the lands described in Part Two of this Schedule and shown on PLAN 5 and identified thereon by the annotation ‘LSA-2’ on the SOUTH by a strip of land varying ten (10) feet to fifty (50) feet wide the property of the Lyford Cay Property Owners Association separating the pieces parcels or tracts of land being hereby described from the Western Road and on the WEST by the pieces parcels or tracts of land being hereby described from Lot 8 in Block 11 of the Number One (1) Subdivision of Lyford Cay and which said pieces parcels or tracts of land being hereby described are for identification purposes shaded BROWN on the Plan or Map hereto attached and marked “PLAN 5”.

**PART TWO**

Description of the lands shown on PLAN 5 and identified thereon by the annotation 'LSA-2': ALL THOSE two pieces parcels or tracts of land comprising ten (10) acres each and not originally included within the Lyford Cay development area but subsequently agreed to be admitted within the Lyford Cay area subject to agreed Covenants, Conditions and Restrictions and lying immediately to the east of the land described in Part One of this Schedule and situate between a strip of land fifty (50) feet wide the property of the Lyford Cay Property Owners Association separating the pieces parcels or tracts of land being hereby described from the Western Road and a strip of land the property of the Lyford Cay Property Owners Association shown on the diagram or plan attached to the before-mentioned Indenture of Conveyance made the 12<sup>th</sup> day of July, 1977 and which said pieces parcels or tracts of land being hereby described are for identification purposes shaded GREEN on the Plan or Map hereto attached and marked "PLAN 5" respectively.

**PART THREE**

Description of the lands shown on PLAN 5 and identified thereon by the annotation 'LSA-3': ALL THOSE two pieces parcels or tracts comprising in aggregate 41.896 acres and not originally included within the Lyford Cay development area but subsequently agreed to be admitted within the Lyford Cay area subject to agreed Covenants, Conditions and Restrictions and lying immediately to the east of the land described in Part Two of this Schedule and situate between a strip of land fifty (50) feet wide the property of the Lyford Cay Property Owners Association separating the pieces parcels or tracts of land being hereby described from the Western Road to the south and by a strip of land the property of the Lyford Cay Property Owners Association shown on the diagram or plan attached to the before-mentioned Indenture of Conveyance made the 12<sup>th</sup> day of July, 1977 to the north and which said pieces parcels or tracts of land being hereby described are for identification purposes shaded YELLOW on the Plan or Map hereto attached and marked "PLAN 5".

**PART FOUR**

Description of the lands shown on PLAN 5 and identified thereon by the annotation 'LSA-4': ALL THOSE pieces parcels or tracts of land comprising 7.9 acres in the aggregate situate at the extreme southeast cul-de-sac of Hibiscus Drive East at the southeast corner of Lyford Cay and numbered as Lots 44-14, 44-15, 44-16, 46-12, 46-13, 46-14 in the Number three (3) subdivision of Lyford Cay and which said pieces parcels or tracts of land being hereby described are for identification purposes shaded BLUE on the Plan or Map hereto attached and marked "PLAN 5."

**FIFTH SCHEDULE**

Coastal Setbacks	The following setbacks shall apply to every tract of land within Lyford Cay which abuts upon the High Water Mark of the Sea (i) along the north coast of New Providence (ii) along all north coast of the original Cay or island known as Simms Cay or Lyford Cay and including Simms Point and (iii) along the coast of Clifton Bay save and except the north coastline of Clifton Bay which parallels EP Taylor Drive: no building including porches or projections of any kind shall be built at a less distance than Twenty-five (25) feet from the High Water Mark and no building including porches or projections of any kind over Fifteen (15) feet in height above ground level shall be built at a less distance than Fifty (50) feet from the High Water Mark nor shall any new building including any dock, boat lift, ramp, or other structure, or groin or other modification to the shoreline be erected along any sandy beach save for any coastal erosion defenses or restoration engineering determined by the Government and neighboring and affected coastal property owners and the Lyford Cay Property Owners Association to be scientifically justified and beneficial to the affected areas and then only with the prior approval of the Lyford Cay Property Owner Association.
General Building Setbacks	Subject to restrictive covenants.
Maximum Site Coverage	Thirty-five percent of building site area of regular sized lots. Twenty percent maximum for estate sized residential lots. Fifty-percent of building site area of commercial lots.
Minimum Parking Requirements	Parking for multi-family residential uses: 2.5 spaces per residential unit). Parking for office/retail commercial uses. 1 space/300 sq. ft. of gross floor area.
Signage	Subject to restrictive covenants: <i>“No sign, billboard, hoarding, or other advertising device of any kind shall be erected or displayed on any lot. Signs identifying a house name may be installed. Such signs shall not exceed 3-ft. in height, and shall not exceed a total area of 6 square feet”</i> .
Building Heights	1.Where building heights are stipulated in Restrictive Covenants then such stipulated building heights continue to apply. 2. Where there are no building heights prescribed or stipulated by Restrictive Covenants no building shall be erected to above two storeys above final grade. 3. Multi-family Residences: no building shall be erected to above three storeys above final grade.