ORDINANCE NO. 10-03

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 102-2 of the Code of Ordinances requires applicants for building permits to comply with the city's Historic Architectural Review Commission's Design Guidelines in Key West's Historic District; and

WHEREAS, amendments to the Design Guidelines are initiated by the Historic Architectural Review Commission from time to time to better preserve the character and appearance of the historic preservation districts and structures; and

WHEREAS, Section 90-142 of the Code of Ordinances incorporates the Design Guidelines by reference; and

WHEREAS, amendments to the Design Guidelines must follow the same procedural requirements as amendments to the Land Development Regulations as specified in Sections 90-516 – through 90-524 of the Code of Ordinances; and

WHEREAS, the Historic Architectural Review Commission initiated changes to the Design Guidelines to clarify guidelines relevant to the character and appearance of three story structures, known as "two and one half story" structures; and

WHEREAS, the Planning Board held a noticed public hearing on October 15, 2009, where based on the consideration of recommendations by the City planner, city attorney, building official and other information recommended approval of the proposed amendments;

WHEREAS, the City Commission held a noticed public hearing on 1-5-2010 and in its

deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City determined 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 RESOLVED BY THE CITY COMISSION OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1. Chapter VI. Design Guidelines in Key West's Historic District, articles [o] Additions and Alterations and [p] New Construction, of the Historical Architectural Guidelines dated May 7, 2002, is amended as follows:

> Key West's historic district's tightly spaced blocks contain a wide variety of architectural styles~~,~~ which relate well to each other. The relationships between the buildings create much of the character of the district. Their height, detailing, mass roof forms, and landscaping all contribute to its visual harmony. It is important that new construction harmonize with the existing historical building stock and streetscapes.
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> Traditional wood-frame buildings in Key West were constructed on low piers that provided a crawl-space under buildings to allow air circulation and to provide protection from flooding. The City also recognizes that conformity with current FEMA regulations with regard to elevation is important. However, the elevation of buildings to allow people and cars to pass underneath is not traditional, and the insertion of such structures

into historic neighborhoods might interfere with the essential form and integrity of historic properties and their environment.

The historic areas of Key West are traditionally low-rise. Nineteenth-century buildings, having no elevators, were limited in height by the elevation that could reasonably be reached by stair. Single-family houses are traditionally no more than two or two-and-a-half stories. Only church steeples, important civic buildings with clock towers, the lighthouse, and other notable landmarks break the skyline. The City Commission finds that the preservation of this traditionally low-rise cityscape in Old Town, interrupted only by significant, symbolically important structures, is a matter of public policy benefiting the people of Key West and the long-term stewardship of historic neighborhoods in Key West.

1. **Siting** – New construction must conform to all current city easement, setback and building requirements. No existing building shall be relocated and no new structure shall be placed closer to the sidewalk, street or visible alley, than the distance of pre-existing historic structures. Areas reserved for parks or open space must be retained.

2. **Elevation of finished floor above grade** - Applications for buildings with the first finished floor above the minimum height necessary to comply with federal flood regulations will not be approved unless the applicant demonstrates that such elevation does not interfere with the essential form and integrity of properties in the neighborhood. In situations wherein parking is proposed below the first finished floor, HARC shall consider how visible the parking is from the public right-of-way; whether the parking area is enclosed or otherwise concealed by walls, louvers, lattice, landscaping or other features; and whether fill and/or berms are used to minimize the gap between the first

finished floor and the crown of the nearest road.

~~2.~~3. **Height** – must not exceed ~~2.5~~ two and a half stories (see Figures 1 and 2). There must be a sympathetic relationship of height between new buildings and existing adjacent structures of the neighborhood. New buildings must be compatible with historic floor elevations. The height of all new construction shall be based upon the height of existing structures within the vicinity.

~~3.~~4. **Proportion, scale and mass** – massing, scale and proportion ~~should~~ shall be similar to that of existing historical buildings in the historical zone. No new construction shall be enlarged so that its proportions are out of scale with its surroundings. No new construction shall be more than two and a half stories. No structure shall outsize the majority of structures in the streetscape or historic zone.

~~4.~~5. **Compatibility** – Design must be compatible with Key West architectural characteristics in the historical zones. All new construction must be in keeping with the historic character in terms of size, scale, design, materials, color and texture.

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Section 2. Chapter IX. Architectural Glossary of the Historical Architectural Guidelines dated May 7, 2002, is amended as follows:

Building: Any structure having a roof and which is entirely separated from any other structure~~s~~ by space or by walls in which there are no communicating doors or windows or any similar opening.

Eave: The edge of the overhang at the lower end of a roof.

~~Half-story: A story under a sloping roof the finished floor area of which does not exceed one-half the floor area of the floor area of the floor immediately below it; or a basement used for human occupancy, the floor area of not to exceed fifty percent of the floor area directly above it.~~

Pitched roof: a roof with a pitch of no less than 4/12 (a four-inch rise in a 12-inch horizontal run).

Top Plate: The component of a wall on which the roof rafters and ceiling joists are supported.

Two and One Half Story Building: A building with two full stories above the crown of the road plus a third floor (known as a "half story") that does not exceed in floor area one-half of the floor area of the floor immediately below within the same building. Typically the half story is located beneath a pitched roof. The following criteria will apply for the review: 1. The roof rafters must rest on and be supported by the top plate of the second story wall. 2. The height of the floor area considered to constitute the half story shall be not less than seven feet six inches high at its highest point and five feet high at its lowest point; (Figures 1 and 2). If the half story is located above a flat roof, its interior height shall be no less than seven feet six inches high and it shall be set back

from the second story roofline equally proportioned on all four sides.

Rafters: Any of a series of parallel structural members supporting the sheathing and covering of a pitched roof.

Section 3. This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a special meeting held this 15th day of December, 2009.

Read and passed on final reading at a regular meeting held this 5th day of January, 2010.

Authenticated by the presiding officer and Clerk of the Commission on 6th day of January, 2010.

Filed with the Clerk January 6, 2010

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

K:\LDR Amendments\HARC Pitched Roof and Two and Half Stories\Ordinance HARC Guidelines two and a half stories- CC December 1 2009.DOC

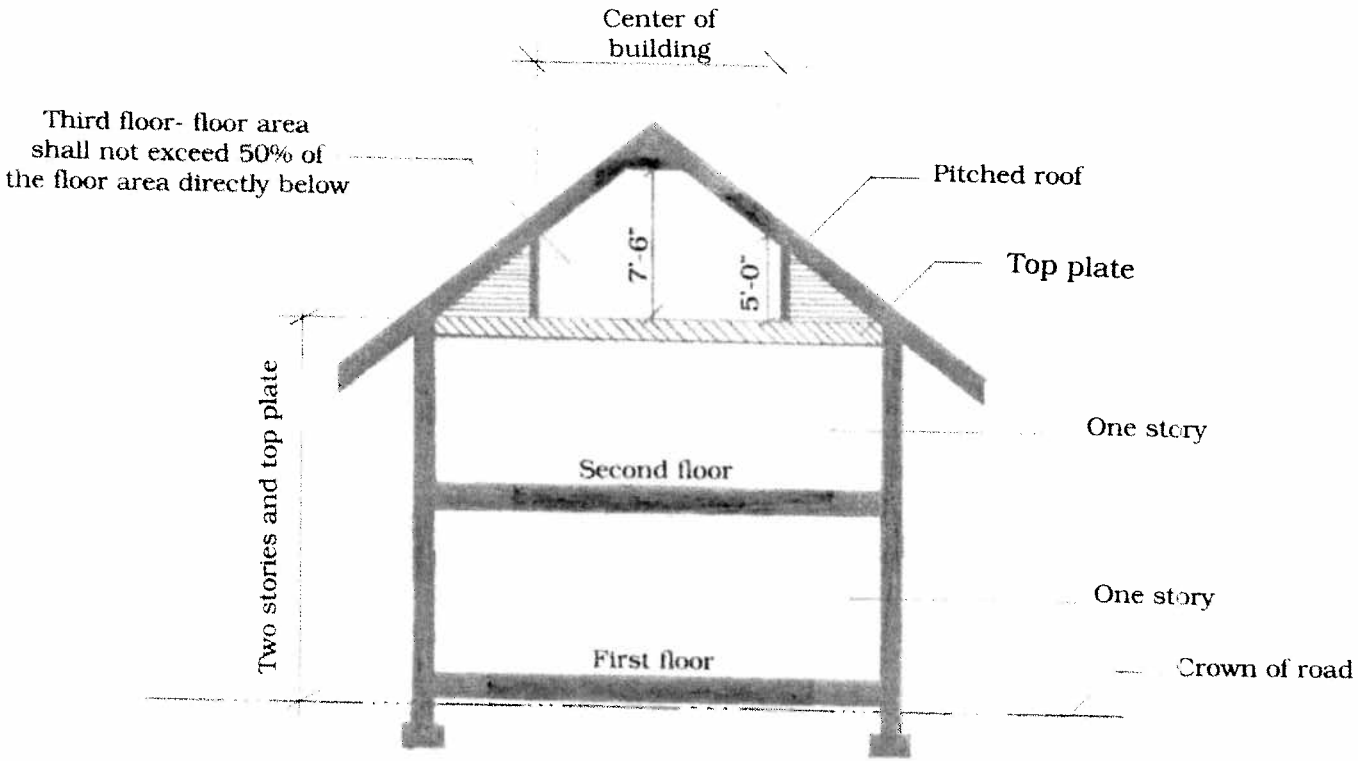

Figure 1

Two and one half story
building with pitched roof and extended eaves

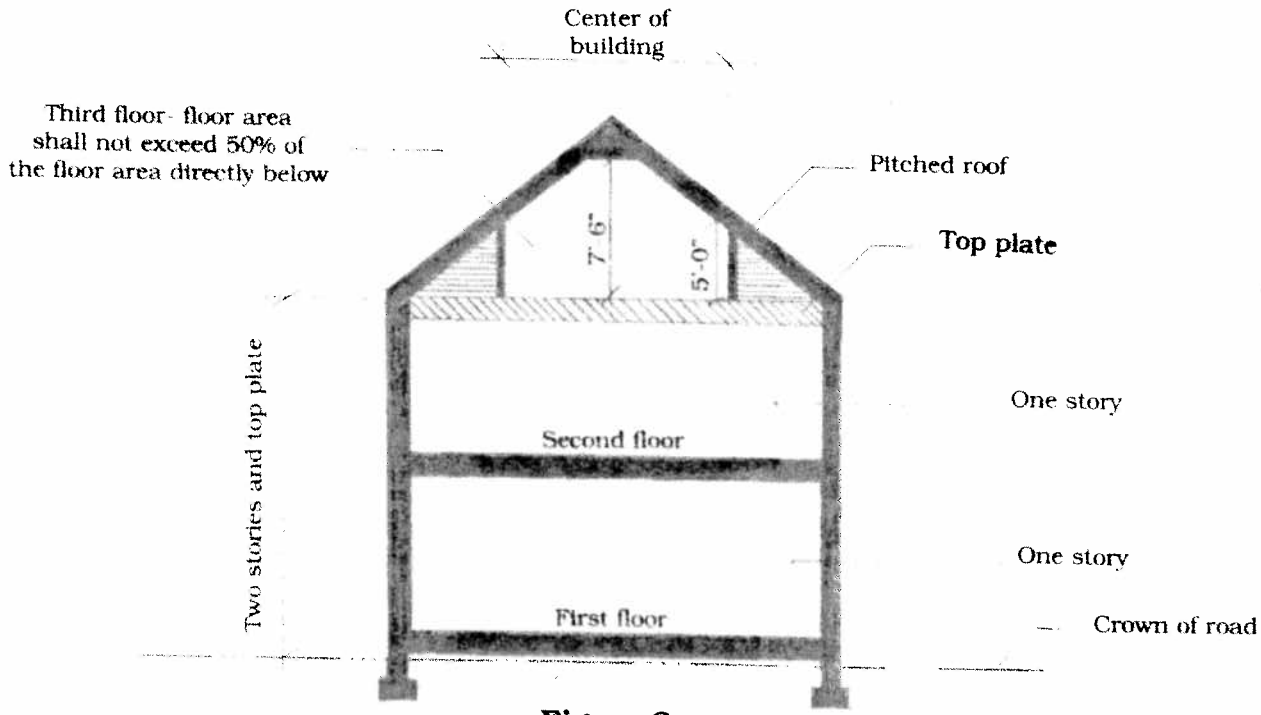

Figure 2

Two and one half story building with pitched roof

Executive Summary

EXECUTIVE SUMMARY

To: Jim Scholl

From: Amy Kimball-Murley, AICP

Meeting Date: December 1, 2009

RE: Two ordinances related to the definition of "two and a half stories" in the Historic Architectural Review Commission Guidelines and related cross-referencing in the land development regulations

ACTION STATEMENT:

Request: Two ordinances related to the definition of "two and a half stories" in the Historic Architectural Review Commission Guidelines and related cross-referencing in the land development regulations, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 86-9 DEFINITION OF TERMS, SECTION 102-1 DEFINITIONS, SECTION 122.600 DIMENSIONAL REQUIREMENTS, SECTION 122-630 DIMENSIONAL REQUIREMENTS, SECTION 122-660 DIMENSIONAL REQUIREMENTS, SECTION 122-690, DIMENSIONAL REQUIREMENTS, SECTION 122-720 DIMENSIONAL REQUIREMENTS, SECTION 122-750 DIMENSIONAL REQUIREMENTS, SECTION 122-810 DIMENSIONAL REQUIREMENTS, SECTION 122-840 DIMENSIONAL REQUIREMENTS, SECTION 122-870 DIMENSIONAL REQUIREMENTS, SECTION 122-900 DIMENSIONAL REQUIREMENTS, SECTION 122-930 DIMENSIONAL REQUIREMENTS, SECTION 122-960 DIMENSIONAL REQUIREMENTS, SECITON 122-970, DIMENSIONAL REQUIREMENTS, SECTION 122-980, DIMENSIONAL REQUIREMENTS, SECTION 122-990, DIMENSIONAL REQUIREMENTS, SECTION 122-1005, DIMENSIONAL REQUIREMENTS, AND

SECTION 122-1151, SIZE AND DIMENSION; AND PROVIDING AN EFFECTIVE DATE.

Location: Historic districts and contributing historic structures in the City

BACKGROUND: Approximately two years ago the Historic Architectural Review Commission (HARC) initiated modifications to the HARC Guidelines to clarify the intent and definition of "two and a half stories" provisions and to define circumstances where the first finished floor elevations of structures can exceed FEMA requirements. After numerous public meetings where draft language was reviewed and discussed, HARC recommended approval of proposed Guideline changes on August 25, 2009. The Planning Board held a public hearing on October 15, 2009 and recommended approval of the Guideline changes and related cross-referencing in the land development regulations.

The "two and a half story" provisions offer formative guidance on the character and appearance of the third story of structures in the historic district. Importantly, because "two and a half stories" guidelines can impact the massing and scale of structures, overall structural height and habitable space resulting from guideline implementation may be more restrictive than that allowed in the zoning code.

The "elevation of finished floor" provisions help define when elevations over those required by federal flood regulations are appropriate and when first level parking can be considered.

Throughout the process of drafting the proposed guidelines, HARC has focused on underlying historic preservation and aesthetic policy issues. The Building Official, HARC Planner, Planning Director, and Legal Department have worked with HARC on more technical aspects of guideline preparation. Staff's focus has been on clarity, consistency with the Building Code, internal consistency within the Land Development Regulations, and procedural matters. As such, there are two key objectives relating to the new guidelines: expression of historic preservation policy as recommended by HARC, the body empowered by the code to examine such matters; and, clear, consistent incorporation of the policy into the Guidelines (which are adopted by reference into the Land Development Regulations) and other portions of the Land Development Regulations.

HARC Guidelines are generally not discretionary. The Guidelines have been incorporated by reference into the Land Development Regulations since 2003, and therefore they are regulatory tools. Any amendment to the Guidelines must follow the same process as an amendment to the Land Development Regulations. In addition, conflicts between the Guidelines and other LDR provisions can confuse applicants and present a challenge for regulators. Therefore, staff is recommending two ordinances to implement changes suggested by HARC. The first ordinance addresses changes internal to the Guidelines; the second ordinance provides cross-referencing and eliminates potentially conflicting or confusing provisions elsewhere in the Land Development Regulations.

Despite many public hearings on the proposed language held by HARC over the last two years, the Planning Department is aware that there remain alternative perspectives on how the proposed definitions should be shaped. The Planning Board listened carefully to testimony on October 15, 2009, and recommended approval of both proposed ordinances.

Previous City Actions:

HARC Recommendation of Approval:	August 25, 2009
Planning Board Recommendation of Approval:	October 15, 2009

Planning Staff Analysis:
Section 90-522 of the Code outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

Sec. 90-522. Planning board review of proposed changes in land development regulations.
(a) The planning board, regardless of the source of the proposed change in the land development regulations, shall hold a public hearing thereon with due public notice. The planning board shall consider recommendations of the city planner, city attorney, building official and other information submitted at the scheduled public hearing. The planning board shall transmit a written report and recommendation concerning the proposed change of zoning to the city commission for official action. In its deliberations the planning board shall consider the criteria stated in section 90-521.

The City Attorney's Office, Building Official and City Planner have worked together to review guideline modifications proposed by HARC and to recommend changes to improve clarity and consistency with the overall Land Development Regulations and Building Code. The Planning Board report dated October 15, 2009 was prepared in support of procedural review criteria in the code and in support of Planning Board consideration.

Sec. 90-521. Criteria for approving amendments to official zoning map.
In evaluating proposed changes to the official zoning map, the city shall consider the following criteria:

(1) *Consistency with plan.* Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

The City's Comprehensive Plan includes a Historic Preservation Sub-Element as part of the Future Land Use Element. Goals, Objectives and Policies in the sub-element support the identification and protection of historic resources in the City. Comprehensive Plan Policy 1A-5.1.4, entitled "Maintain Unique Architectural Heritage of Historically

Significant Housing Resources" requires that the City amend Land Development Regulations to "incorporate criteria for maintaining the unique architectural heritage of the Historic District's housing." Policy 1A-1.2.1, entitled "HARC Guidelines" requires the City and HARC to "protect historically significant structures and historic districts by periodically updating the HARC Guidelines." The proposed ordinances are consistent with these and related Goals, Objectives and Policies in the Comprehensive Plan.

Because the proposed ordinances do not impact density or intensity, they will have no impact on minimum levels of service or concurrency determinations as established by the Comprehensive Plan.

(2) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposed ordinances are in conformance with the Code and the procedures for amending both HARC Guidelines and other aspects of the Land Development Regulations will be followed and are supported by this report.

(3) *Changed conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.

There are no changed conditions or regulations associated with these ordinances. HARC, in the course of the conduct of its duties has found that modifications to the Guidelines as suggested will support historic preservation in the City.

(4) *Land use compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

The proposed ordinances will have no impact on land uses. It is expected that ordinances will improve compatibility of future structures within the historic fabric of Key West.

(5) *Adequate public facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to chapter 94.

The proposed ordinances are intended to address HARC Guidelines and will have no impact on concurrency requirements or the provision of public facilities.

(6) ***Natural environment.*** **Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The proposed ordinances are intended to address HARC Guidelines and will have no impact on the natural environment.

(7) ***Economic effects.*** **Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

The proposed ordinances promote the preservation of the historic character and the integrity of the historic district. This proposal is not expected to have an adverse effect on the property values in the area or the general welfare. Protecting the historic fabric tends to maintain and increase property values, since historic districts and buildings are unique and tend to have higher real estate values than the rest of the City.

(8) ***Orderly development.*** **Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

The proposed modifications will support an orderly and compatible land use pattern; the guideline modifications reflect HARC policy direction and associated LDR amendments provide consistency throughout the code. These modifications will also protect the historic fabric by reinforcing scale and the traditional massing and proportion that characterize historic district buildings.

(9) ***Public interest; enabling act.*** **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.**

The proposed ordinances do not appear to be in conflict with the public interest. They are expected to help protect the historic district, which is in the public interest and will further the intent of the Comprehensive Plan and Land Development Regulations.

(10) ***Other matters.*** **Other matters which the planning board and the city commission may deem appropriate.**

Other matters have not been identified at this time.

<u>Options / Advantages / Disadvantages:</u>

Option 1. Approve the two proposed ordinances.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The strategic plan is does not address land use and historic preservation issues pertinent to this request.

2. **Financial Impact:** There is no direct financial impact to the city if the ordinances are adopted.

Option 2. Do not approve the ordinances.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The strategic plan is does not address land use and historic preservation issues pertinent to this request.

2. **Financial Impact**: There is no direct financial impact to the city if the ordinances are not adopted; however, the failure to pass the ordinances could have a negative impact on historic preservation and might contribute to a decline in the value of structures in the historic districts.

RECOMMENDATION: Option 1

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Draft Ordinances

Planning Board Resolutions

RESOLUTION NUMBER 2009-38

A RESOLUTION OF THE KEY WEST PLANNING BOARD RECOMENDING APPROVAL OF AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Historic Architectural Review Commission initiated the proposed amendment to clarify guidelines relevant to the character and appearance of three story structures, known as "two and one half story" structures; and,

WHEREAS, the Planning Board held a noticed public hearing on October 15, 2009, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, the Board recommended approval of the proposed amendments; and

WHEREAS, the Planning Board determined 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.

BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

_____ Chairman

_____ Planning Director

Section 2. That APPROVAL OF AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA, with typographical corrections is hereby recommended for approval; a copy of the draft ordinance is attached.

Section 3. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 15th day of October, 2009.

Authenticated by the Chairman of the Planning Board and the Planning Director.

11/13/2009

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

11/13/2009

Amy Kimball-Murley, AICP
Planning Director

Date

Filed with the Clerk:

11-13-09

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director

ORDINANCE NO. _____

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WHEREAS, the City Commission held a noticed public hearing on _____ and in its

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deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City determined 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.

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from the second story roofline equally proportioned on all four sides.

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Section 3. This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2009.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2009.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2009.

_____
CRAIG CATES, MAYOR

ATTEST:

_____
CHERYL SMITH, CITY CLERK

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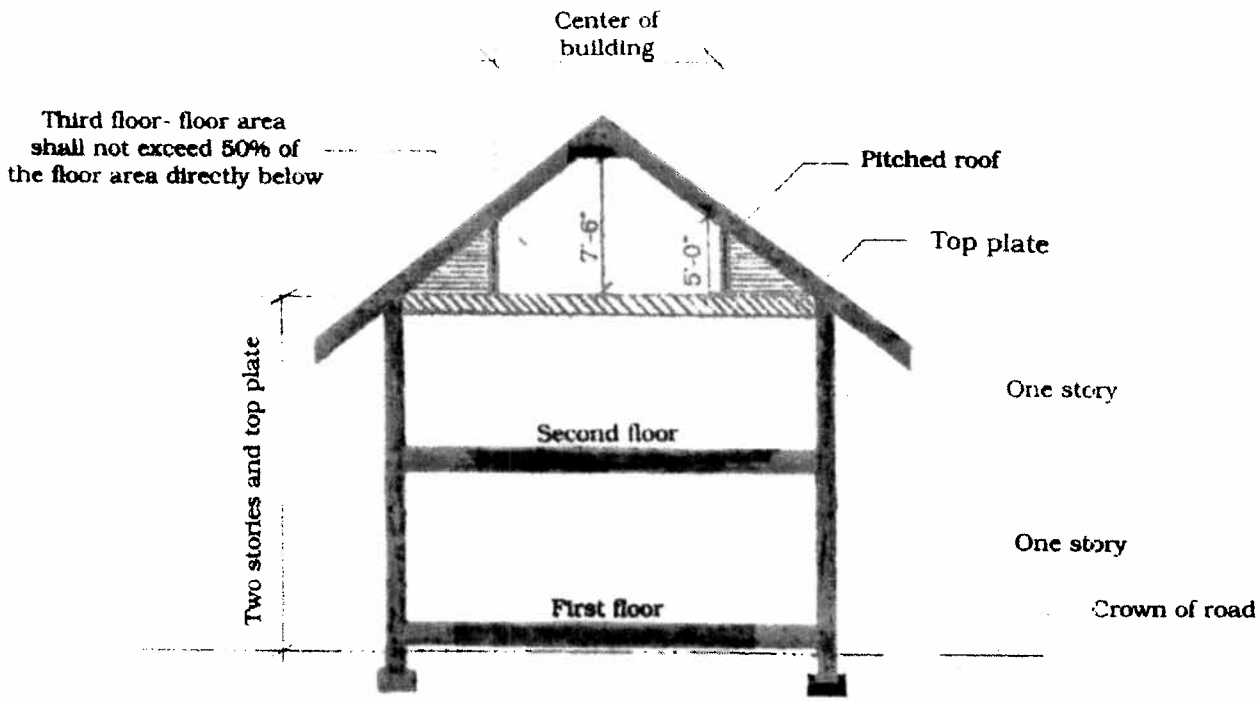


Figure 1

Two and one half story
building with pitched roof and extended eaves

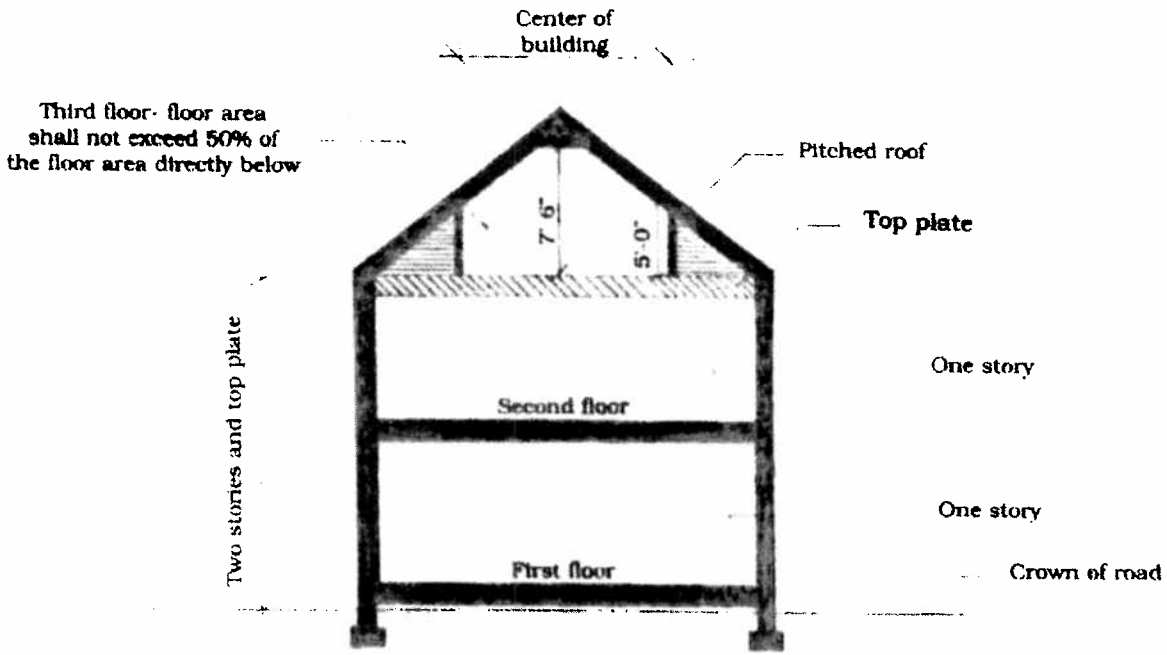


Figure 2

Two and one half story building with pitched roof

HARC Meeting Minutes

OLD BUISNESS:

1. Two and a half story-guideline revisions.

Preservation Planner Enid Torregrosa summarized the changes to the draft two and one half story definition (copy attached). Major changes were done on pages 5 and 6 on the last paragraph of page 5, definition for two and one-half story building: "A building with two full stories above the crown of the road plus a third floor known as a half story that does not exceed in floor area one half of the floor area of the floor immediately below within the same building. Typically the half story is located beneath a pitched roof. The following criteria will be applied for the review: 1. The roof rafters must rest on and be supported by the top plate of the second story wall. 2. The height of the floor area considered to constitute the half story shall not be less than 7 feet 6 inches high at its highest point, and 5 feet high at its lowest point (Figures 1 and 2). If the half story is located above a flat roof, its interior height shall be not less than 7 feet 6 inches high and it shall be set back from the second story roofline equally proportionate on its four sides."

Public Input:
Michael Ingram, Architect

Nils Muench felt that this was the product of a great deal of work and input by may people with support including the Chief Building Official and he felt that it was ready to approve.

Carlos spoke about his concern about the last line that concerns "the roof line proportioned equally on four sides". Mr. Rojas provided a printout for the Commission (copy attached).

Nils Muench responded by stating "this line arbitrary and unnecessarily constricts the planning envelope which an architect can design a building for the following reasons:" Mr. Muench stated that what was at issue was when a flat roofed building had a third story which was half of the area immediately below, whether that needs to be in the center or can be over on the edge. Mr. Muench moved to the drawing board and presented diagrams showing the difference in definitions. Mr. Muench stated that the purpose of the Guidelines was to restrict flexibility in order to achieve design objectives for the historic district. He stated that the Guidelines provided for an exception when necessary which

would allow for the case where a third story may be necessary to be placed outside of the center of the building due to the surrounding neighborhood architecture. The Guidelines were aimed at the norm.

Public Input:
Bill Estes

There was a discussion about the AT&T building on the corner of Southard and Simonton Streets which appears to be two stories but, in fact, has a third story which is not visible from the street. The intent was not for the third story to impact a neighbor. Chairperson Barbara Bowers stated that no architect wanted restrictions; however, she felt that she had to agree with Commissioner Muench that, in fact, if they could make the statement as tight and concise as possible.

Nils Muench suggested that the Chief Building Official speak on the matter.

Assistant City Attorney Ronald Ramsingh reminded the Commission that there was a Planning Board meeting scheduled for 6:00 p.m. and there were time constraints.

Chief Building Official John Woodson agreed with Commissioner Muench's statements stating that they could discuss this "until the cows came home" and there would be people who had different ideas. The definition of a true half story would be half the height of the existing floor. What they were trying to do was describe an element in the historic district. He felt that there were exceptions that could be made and they couldn't get a better definition than the proposed drafted definition.

Carlos Rojas stated that he had a lengthy presentation and moved to table the item to the next meeting. Chairperson Barbara Bowers stated that she would not like to see this item tabled. Carlos Rojas stated that he would like to discuss the matter then.

Assistant City Attorney Ronald Ramsingh stated that with a motion on the floor there was no discussion. They either needed a second or the motion failed. Carlos Rojas withdrew the motion.

Carlos Rojas requested they refer to the diagrams that he had drawn. He stated that with the proposed definition they could only

build a "wedding cake" type of design. That would assume that the building was either square or rectangular. Many buildings are "L" shaped or pie shaped and he felt if they passed it the way it existed those people who had the odd shaped buildings would be unable to comply. Mr. Rojas stated that he also had a problem with the way in which a line was added following his discussion with Staff. He felt that he had been directed into this discussion by the Commission for the Board. He was unaware of the change until the draft was forwarded to him the previous day. He referred to the mass and scale definitions in the Guidelines that they refer to time and time again. He felt that if they passed it the way it was presented, people would be forced to ask for the exception all the time and he didn't feel that was what the Commission wanted.

Preservation Planner Enid Torregrosa pointed out that she had received, as Staff, not only comments from Carlos Rojas, but many other people and Staff as well. Her final draft was a compilation of the comments presented from everyone.

Chairperson Barbara Bowers stated that he was invited to have the discussion with Staff because he had some objections to it, not because he was to have the absolute final say to the draft.

Carlos Rojas stated that he was aware of that. He felt that the line was added by one Commissioner without discussion.

Chairperson Barbara Bowers stated that they were having the discussion now and they could have meetings on this draft for another three years. She stated that she would prefer that they vote so that it may begin the journey to the Planning Board and the City Commission for review. Should it not pass, then they would be forced to continue to revise. She felt that they had come to a time where they needed to settle it.

It was moved by Nils Muench, seconded by Gary F. Smith, to approve. Motion carried. Carlos Rojas voted no.

Chairperson Barbara Bowers stated that the draft definition would be forwarded to the Planning Board for review.

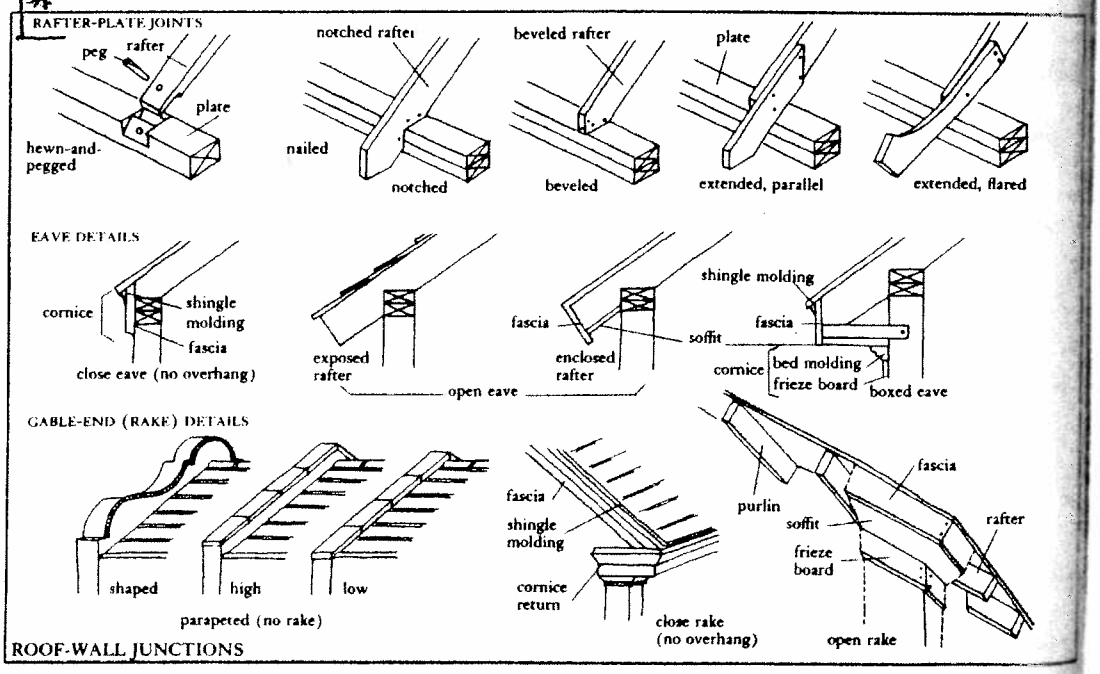
APPROVED ___X___ DISAPPROVED _____ TABLED_____

Building Code and Architectural Dictionary Excerpts

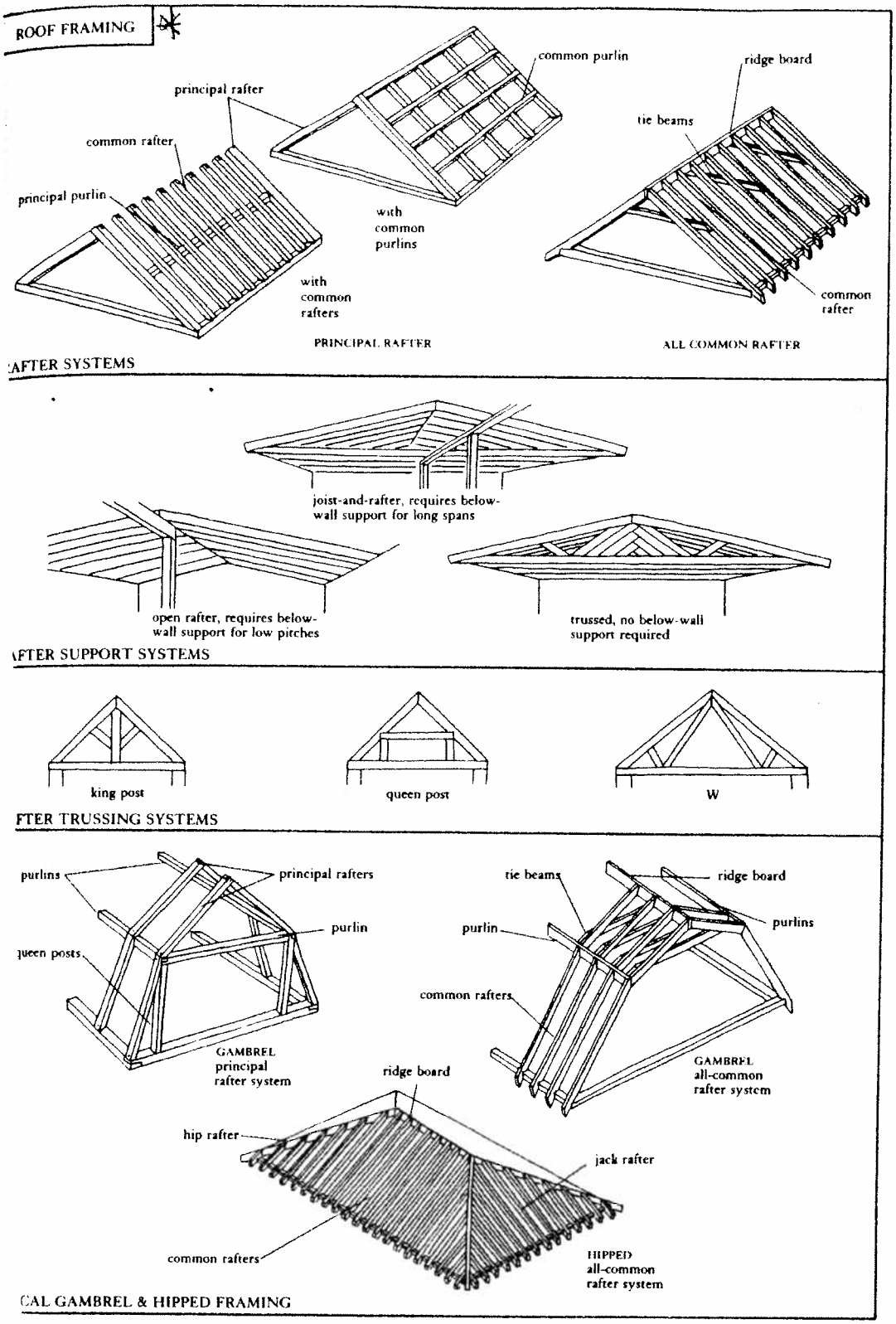
since colonial times, wooden shingles have remained a dominant roofing material of American houses.

Roofs of mineral materials also have a long history. Simplest are roofs of earth, or of earth bound by grass roots to make sod; both are common on folk dwellings everywhere. Both the earliest New World colonists and 19th-century settlers in the treeless western half of the country commonly used earth or sod roofs on temporary dwellings. They are also used for the roofs of permanent Spanish-influenced dwellings in the American Southwest. Roofs of thin, flat pieces of natural stone, tightly overlapped as with wooden shingles, were common in the larger dwellings of Medieval and Postmedieval Europe. An abundance of wood for making shingles—and a relative scarcity of quality slate, the most easily split and durable type of stone—made such roofs uncommon in this country until the late 19th century, when they began to be used in houses that simulated earlier European traditions. A third type of mineral roof, composed of thin, shaped units of baked clay tiles, was developed in classical times and has since remained a continuous feature in European architecture. Several systems of interlocking tile units have been developed through this long history. Most of these systems have been employed on monumental New World houses since colonial times but, like slate roofs, they have been common only since the late 19th century. In the 20th century, tiles made from concrete and other composite ceramic materials have been developed which simulate clay tile. (Note also that metal and composition roofs are often shaped and colored to resemble ceramic tile.)

Metal roofs also have a long history, for sheets of lead or copper have been used as roofing since classical times. A few landmark colonial houses of the New World used such roofs, but metal became a common roofing material only in the early 19th century when sheet iron (usually coated with zinc, tin, or lead to prevent rust) first became relatively inexpensive and plentiful. Usually metal roofs are applied as large sheets joined with standing seams, which help prevent leaks. Later in the 19th century, stronger corrugated panels of iron became common for roofing of commercial and modest domestic



From A Field Guide to American Houses
Virginia and Lee McAlister
2006 Edition



From A Field Guide to American Houses
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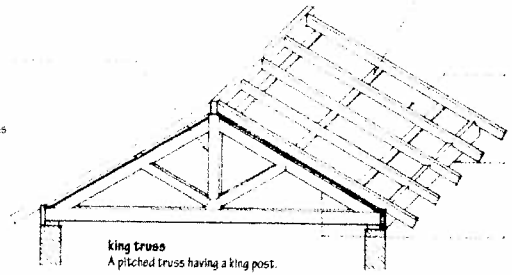
[redacted]

double roof
A roof in which longitudinal members, as a ridge beam and purlins, are used as intermediate supports for common rafters. Also called **double-framed roof**.

king post
A vertical member from the apex to the bottom chord of a pitched truss.

joggle post
A king post having notches or raised areas for receiving and supporting the feet of inclined struts. Also called **joggle piece**.

joggle
An enlarged area of a post for supporting the foot of a strut or brace.



king truss
A pitched truss having a king post.

purlin
A longitudinal member of a roof frame for supporting common rafters between the ridge and the eaves. Also, **purline**. Also called **binding rafter**.

subpurlin
A light structural member for carrying roofing materials, supported by and running at right angles to purlins.

common rafter
A rafter extending from a wallplate to a ridgeboard or ridgebeam and having no function other than to support sheathing and covering of a roof.

pole plate
A beam perpendicular to the ends of tie beams in a trussed roof and supporting common rafters near their lower ends.

principal rafter
A diagonal member of a roof principal, usually forming part of a truss and supporting the purlins on which common rafters rest.

principal
A member in a frame structure upon which adjacent or similar members depend for support or reinforcement.

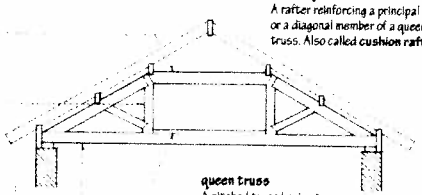
auxiliary rafter
A rafter reinforcing a principal rafter or a diagonal member of a queen truss. Also called **cushion rafter**.

straining piece
A horizontal tie beam uniting the tops of two queen posts. Also called **straining beam**.

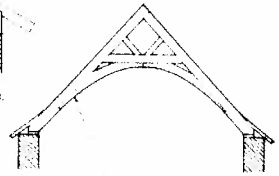
queen post
Either of the two vertical web members set at equal distances from the apex of a pitched truss.

tie beam
A horizontal timber for connecting two structural members to keep them from spreading apart, as a beam connecting the feet of two principal rafters in a roof truss.

straining sill
A compression member lying along and dogged to the tie beam of a queen truss and separating the feet of the queen posts.



queen truss
A pitched truss having two queen posts connected by a straining piece.



arch brace
A curved brace, usually used in pairs to support a roof frame and give the effect of an arch.

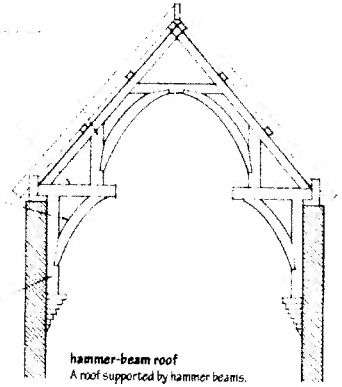
hammer post
A vertical timber set on the inner end of a hammer beam and braced to a collar beam above to support a purlin.

hammer beam
One of pair of short horizontal members attached to the foot of a principal rafter at the level of the wall plate, used in place of a tie beam.

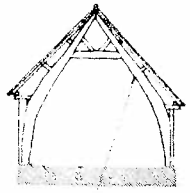
hammer brace
A bracket for supporting a hammer beam.

bracket
A support projecting horizontally from a wall to bear the weight of a cantilever or to strengthen an angle.

pendant post
A vertical timber supported at its lower end by a corbel and carrying at its upper end a hammer beam or tie beam.



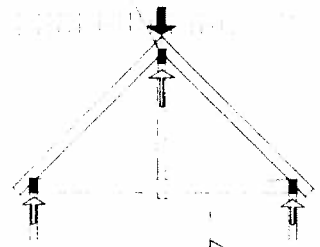
hammer-beam roof
A roof supported by hammer beams.

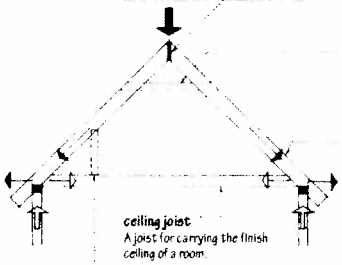


cruck
One of a pair of naturally curved timbers, forming one of several arched frames supporting the roof of an old English cottage or farm building.

ridge beam
A beam for supporting the upper ends of rafters at the ridge of a roof.

ridge board
A horizontal timber at the ridge of a roof, to which the upper ends of the rafters are fastened. Also called **ridgepole**, **ridgepiece**.





roof framing
The act, process, or manner of constructing the structural frame of a roof.

couple
A pair of rafters connected by a collar beam or tie beam. Also called **couple-close**.

collar beam
A horizontal timber uniting two opposing common rafters at a point below the ridge, usually in the upper half of the rafter length. Also called **collar tie**.

rafter
Any of a series of small, parallel beams for supporting the sheathing and covering of a pitched roof.

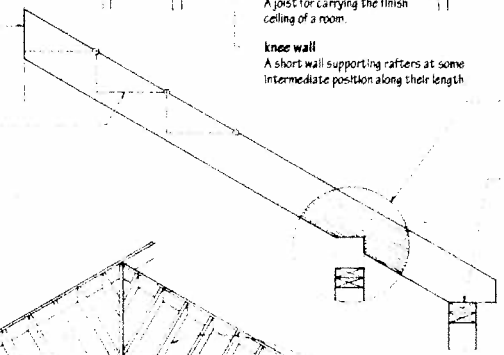
ceiling joist
A joist for carrying the finish ceiling of a room.

knee wall
A short wall supporting rafters at some intermediate position along their length.

tap cut
A plumb cut at the upper end of a rafter where it butts against a ridgeboard.

plumb
Vertical or perpendicular in direction.

stepping off
A method of determining the length of a rafter with a framing square, by marking an increment of angular length for each foot of horizontal run.

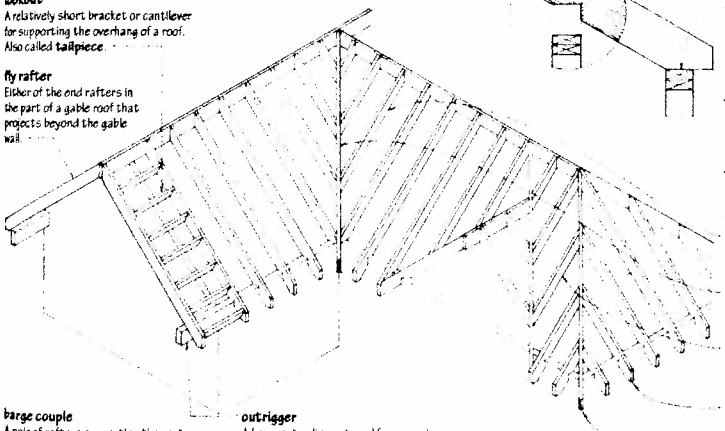


bird's mouth
A right-angled notch cut on the underside of a rafter to fit over a longitudinal member, as a wall plate.

seat cut
A horizontal cut at the lower end of a rafter that allows it to rest on and be connected to a wall plate. Also called **foot cut**, **plate cut**.

lookout
A relatively short bracket or cantilever for supporting the overhang of a roof. Also called **tailpiece**.

fly rafter
Either of the end rafters in the part of a gable roof that projects beyond the gable wall.



jack
Having a length or height less than that of most of the others in a framed structure, as a jack rafter or jack truss.

jack rafter
Any rafter that is shorter than the full length of the roof slope, as one meeting a hip or a valley.

valley jack
A jack rafter extending from a valley rafter to a ridge.

valley rafter
A rafter connecting the ridge to the wall plate along a valley.

cripple jack
A rafter joining a hip to a valley. Also called **double jack rafter**.

hip jack
A jack rafter extending from a wall plate to a hip rafter.

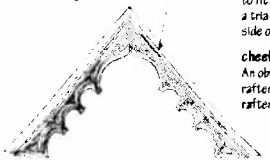
hip rafter
A rafter forming the junction of the sloping sides of a hip roof.

dragon beam
A short beam receiving and holding the foot of a hip rafter to counteract its thrust. Also called **dragon piece**.

dragon tie
An angle brace for supporting one end of a dragon beam.

barge couple
A pair of rafters supporting the part of a gable roof that projects beyond the gable wall.

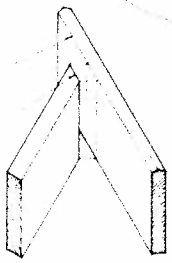
bargeboard
A board, often carved, attached to the projecting end of a gable roof. Also called **vergeboard**.



outrigger
A beam extending outward from a main structure to support the projection of a floor or roof.

backing
A bevel given to the outer and upper edge of a hip rafter in order to allow sheathing to fit the top of the rafter without leaving a triangular space between it and the lower side of the roof covering.

cheek cut
An oblique angular cut at the end of a jack rafter enabling it to fit tightly against a hip rafter or valley rafter. Also called **side cut**.



FUEL-PIPING SYSTEM. All piping, tubing, valves and fittings used to connect fuel utilization equipment to the point of fuel delivery.

FULLWAY VALVE. A valve that in the full open position has an opening cross-sectional area equal to a minimum of 85 percent of the cross-sectional area of the connecting pipe.

FURNACE. A vented heating appliance designed or arranged to discharge heated air into a conditioned space or through a duct or ducts.

GARAGE DOOR MANUFACTURER. The party responsible for the completed assembly of the garage door components.

GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Includes the area of glazed fenestration assemblies in walls bounding conditioned basements.

GRADE. The finished ground level adjoining the building at all exterior walls.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE, PIPING. See "Slope."

GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 ft (1829 mm) from the building between the structure and a point 6 ft (1829 mm) from the building.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

GROSS AREA OF EXTERIOR WALLS. The normal projection of all exterior walls, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

HABITABLE SPACE. A space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, screen enclosures, sunroom Categories I, II and III as defined in the AAMA/NPEA/NSA 2100, storage or utility space, and similar areas are not considered habitable space.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEATING. See Chapter 28 of the *Florida Building Code, Building* and the *Florida Building Code, Mechanical.*

HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

HEAT PUMP. An appliance having heating or heating/cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

HEIGHT, BUILDING. The vertical distance from grade plane to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

HIGH-VELOCITY HURRICANE ZONE. This zone consists of Broward and Miami-Dade counties.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or building drain, that receives the discharge from one or more fixture drains.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the basic wind speed is greater than 90 miles per hour (40 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands, and America Samoa.

HYDROGEN GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated systems for generating gaseous hydrogen. Hydrogen generating appliances utilize electrolysis, reformation, chemical, or other processes to generate hydrogen.

IGNITION SOURCE. A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include appliance burners, burner ignitions and electrical switching devices.

INDIRECT WASTE PIPE. A waste pipe that discharges into the drainage system through an air gap into a trap, fixture or receptor.

1205.2.2 Exterior openings. Exterior openings required by Section 1205.2 for natural light shall open directly onto a public way, yard or court, as set forth in Section 1206.

Exceptions:

1. Required exterior openings are permitted to open into a roofed porch where the porch:
   1.1. Abuts a public way, yard or court.
   1.2. Has a ceiling height of not less than 7 feet (2134 mm).
   1.3. Has a longer side at least 65 percent open and unobstructed.
2. Skylights are not required to open directly onto a public way, yard or court.

1205.3 Artificial light. Artificial light shall be provided that is adequate to provide an average illumination of 10 foot-candles (107 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

1205.4 Stairway illumination. Stairways within dwelling units and exterior stairways serving a dwelling unit shall have an illumination level on tread runs of not less than 1 foot-candle (11 lux). Stairs in other occupancies shall be governed by Chapter 10.

1205.4.1 Controls. The control for activation of the required stairway lighting shall be in accordance with Chapter 27 of the *Florida Building Code, Building*.

1205.5 Emergency egress lighting. The means of egress shall be illuminated in accordance with Section 1006.1.

SECTION 1206
YARDS OR COURTS

1206.1 General. This section shall apply to yards and courts adjacent to exterior openings that provide natural light or ventilation. Such yards and courts shall be on the same property as the building.

1206.2 Yards. Yards shall not be less than 3 feet (914 mm) in width for one- and two-story buildings. For buildings more than two stories in height, the minimum width of the yard shall be increased at the rate of 1 foot (305 mm) for each additional story. For buildings exceeding 14 stories in height, the required width of the yard shall be computed on the basis of 14 stories.

1206.3 Courts. Courts shall not be less than 3 feet (914 mm) in width. Courts having windows opening on opposite sides shall not be less than 6 feet (1829 mm) in width. Courts shall not be less than 10 feet (3048 mm) in length unless bounded on one end by a public way or yard. For buildings more than two stories in height, the court shall be increased 1 foot (305 mm) in width and 2 feet (310 mm) in length for each additional story. For buildings exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

1206.3.1 Court access. Access shall be provided to the bottom of courts for cleaning purposes.

1206.3.2 Air intake. Courts more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet (0.93 m^2) in area and leading to the exterior of the building unless abutting a yard or public way.

1206.3.3 Court drainage. The bottom of every court shall be properly graded and drained to a public sewer or other approved disposal system complying with the *Florida Building Code, Plumbing*.

SECTION 1207
SOUND TRANSMISSION

1207.1 Scope. This section shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as halls, corridors, stairs or service areas.

1207.2 Air-borne sound. Walls, partitions and floor/ceiling assemblies separating dwelling units from each other or from public or service areas shall have a sound transmission class (STC) of not less than 50 (45 if field tested) for air-borne noise when tested in accordance with ASTM E 90. Penetrations or openings in construction assemblies for piping; electrical devices; recessed cabinets; bathtubs; soffits; or heating, ventilating or exhaust ducts shall be sealed, lined, insulated or otherwise treated to maintain the required ratings. This requirement shall not apply to dwelling unit entrance doors; however, such doors shall be tight fitting to the frame and sill.

1207.3 Structure-borne sound. Floor/ceiling assemblies between dwelling units or between a dwelling unit and a public or service area within the structure shall have an impact insulation class (IIC) rating of not less than 50 (45 if field tested) when tested in accordance with ASTM E 492.

SECTION 1208
INTERIOR SPACE DIMENSIONS

1208.1 Minimum room widths. Habitable spaces, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

1208.2 Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof. For accessibility provisions related to vertical clearance of

areas adjoining an accessible route, refer to Section 11-4.4.2.

3. Mezzanines constructed in accordance with Section 505.1.

1208.2.1 Furred ceiling. Any room with a furred ceiling shall be required to have the minimum ceiling height in two-thirds of the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet (2134 mm).

1208.3 Room area. Every dwelling unit shall have at least one room that shall have not less than 120 square feet (13.9 m^2) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m^2).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 square feet (4.64 m^2) of gross floor area.

1208.4 Efficiency dwelling units. An efficiency living unit shall conform to the requirements of the code except as modified herein:

1. The unit shall have a living room of not less than 220 square feet (20.4 m^2) of floor area. An additional 100 square feet (9.3 m^2) of floor area shall be provided for each occupant of such unit in excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

SECTION 1209
ACCESS TO UNOCCUPIED SPACES

1209.1 Crawl spaces. Crawl spaces shall be provided with a minimum of one access opening not less than 18 inches by 24 inches (457 mm by 610 mm).

1209.2 Attic spaces. An opening not less than 20 inches by 30 inches (559 mm by 762 mm) shall be provided to any attic area having a clear height of over 30 inches (762 mm). A 30-inch (762 mm) minimum clear headroom in the attic space shall be provided at or above the access opening.

1209.3 Mechanical appliances. Access to mechanical appliances installed in under-floor areas, in attic spaces and on roofs or elevated structures shall be in accordance with the *Florida Building Code, Mechanical.*

SECTION 1210
SURROUNDING MATERIALS

1210.1 Floors. In other than dwelling units, toilet and bathing room floors shall have a smooth, hard, nonabsorbent surface that extends upward onto the walls at least 6 inches (152 mm).

1210.2 Walls. Walls within 2 feet (610 mm) of urinals and water closets shall have a smooth, hard, nonabsorbent surface, to a height of 4 feet (1219 mm) above the floor, and except for structural elements, the materials used in such walls shall be of a type that is not adversely affected by moisture.

Exceptions:

1. Dwelling units and sleeping units.
2. Toilet rooms that are not accessible to the public and which have not more than one water closet.

Accessories such as grab bars, towel bars, paper dispensers and soap dishes, provided on or within walls, shall be installed and sealed to protect structural elements from moisture.

1210.3 Showers. Shower compartments and walls above bathtubs with installed shower heads shall be finished with a smooth, nonabsorbent surface to a height not less than 70 inches (1778 mm) above the drain inlet.

1210.4 Waterproof joints. Built-in tubs with showers shall have waterproof joints between the tub and adjacent wall.

1210.5 Toilet rooms. Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

DCA Final Order No.: DCA10-OR-047

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

2010 MAR 15 AM 11:52
CITY CLERK
KEY WEST, FLORIDA

In re: LAND DEVELOPMENT REGULATIONS ADOPTED BY CITY OF KEY WEST ORDINANCE NO. 10-03

FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., (2009), approving a land development regulation adopted by a local government within the City of Key West Area of Critical State Concern as set forth below.

FINDINGS OF FACT

1. The City of Key West is a designated area of critical state concern.

2. On February 5, 2010 the Department received for review City of Key West Ordinance No. 10-03, which was adopted by the City of Key West City Commission on January 5, 2010, ("Ord. 10-03"). The purpose of Ord. 10-03 is to amend the City of Key West Historic Architectural Review Commission Guidelines as referenced in Section 90-142; adopt a new design guideline entitled Elevation of Finished Floor Above Grade; amend the Proportion, Scale and Mass Design Guideline to limit development height to no more than two and a half stories; and amend the definition of a building in Chapter IX – Architectural Glossary of the Historical Architectural Guidelines.

3. Ord. 10-03 is consistent with the City's Comprehensive Plan: Goal 1A-1: to Identify and Protect Resources of Archeological, Historical, and Architectural Significance; Policy 1A-1.2.1: HARC Guidelines to protect all historically significant structures and historic districts; and Goal 1A-2.16: Infill Development to ensure consistency with the character and scale of adjacent contributing structures.

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 based upon consistency with the Principles for Guiding Development applicable to that area of critical state concern. §§ 380.05(6) and 380.05(11), Fla. Stat., (2009).

5. The City of Key West is an Area of Critical State Concern. § 380.05, Fla. Stat. (2009) and Rule 28-36.001, Fla. Admin. Code.

6. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2009). The regulations adopted by Ord. 10-03 are land development regulations.

7. 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 the particular area (the "Principles"). § 380.05(6), Fla. Stat.; see Rathkamp v. Department of Community Affairs, 21 F.A.L.R. 1902 (Dec. 4, 1998), aff'd., 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Fla. Admin. Code.

8. The above identified portions of Ord. 10-03, are consistent the following Principles:

(a) Strengthen local government capabilities for managing land use and development.

(e) Protection of the historical heritage of Key West and the Key West Historical Preservation District.

(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.

9. Ord. 10-03 is not inconsistent with the remaining Principles and is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 10-03 is found to be consistent with the Principles for Guiding Development of the City of Key West Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.

CHARLES GAUTHIER, AICP
Director, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

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, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED

REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

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 persons listed below by the method indicated this 12 day of March, 2010.

Paula Ford, Agency Clerk

By U.S. Mail:

The Honorable Craig Cates
Mayor, City of Key West
P.O. Box 1409
Key West, Florida 33041

Cheryl Smith
Clerk to the City Commission
P.O. Box 1409
Key West, Florida 33041

Amy Kimball-Murley, AICP
Planning Director
City of Key West
P.O. Box 1409
Key West, Florida 33041

Larry Erskine
City Attorney
P.O. Box 1409
Key West, FL 33041

By Hand Delivery or Interagency Mail:
Rebecca Jetton, ACSC Administrator, DCA Tallahassee
Richard E. Shine, Assistant General Counsel, DCA Tallahassee