**ORDINANCE NO. 12-07**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES FOR SOLAR ENERGY COLLECTORS OR OTHER ENERGY PRODUCTION DEVICES 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 Land Development Regulations 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 clarify and strengthen the review process when a citizen submits a Certificate of Appropriateness application for solar energy collectors or other energy production devices; and

**WHEREAS**, the planning board held a noticed public hearing on November 16, 2011, where based on the consideration of recommendations by the planning director, city attorney, building official and other information recommended approval of the proposed amendments;

**WHEREAS**, the city commission held a noticed public hearing on May 1, 2012 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 [c] Roofing and [f] Solar collectors, scuttles and skylights, of the Historical Architectural Guidelines dated May 7, 2002, are amended as follows:

Article [c] Roofing, Page 26;

5. The public view of the roofline should not be altered by the addition of new features such as dormers, scuttles, vents or skylights. Such features may be allowed on roof surfaces not visible from a public right of way. ~~Solar collectors,~~

~~scuttles and skylights may be installed on roof surfaces not visible from principal right of way; HARC will review each application on a case by case.~~

Article [f] Solar Collectors, scuttles and skylights, Page 28;

**Solar ~~Collectors, Scuttles & Skylights~~ Energy Collectors or other Energy Production Devices**

Introduction paragraphs:

HARC is supportive of the citizen's of Key West awareness of sustainability and energy efficiency issues. The retention and adaptive use of historic buildings preserves the materials, embodied energy, and human capital already expended in their construction. The reuse of buildings is one of the greener practices in the overall promotion of sustainability.

HARC believes that energy conservation in historic buildings can be accomplished responsibly without compromising the qualities that define their historic character. In an effort to promote the reduction of carbon footprint and energy conservation HARC suggests the following recommendations to our citizens: use of energy rated appliances and mechanical equipment, reuse and use of existing cisterns, preservation and reuse of as much historic materials as possible, planting trees and installation of insulation materials on ceilings, roofs and walls.

~~1. New solar collectors, scuttles and skylights should be flat-mounted directly on the roof so that they do not destroy the roofline by protruding unduly from the~~

~~surface of the roof, and can only be placed on roof surfaces not visible from a public right-of-way.~~

1. HARC supports the introduction of new and emerging technology for renewable energy but will seek to achieve this by ensuring equipment is installed without permanent detriment to the historic fabric already established in the district and the least visual impact to buildings and streetscapes HARC's goal is high performance conservation with low public visibility. HARC recommends applicants exhaust all other ways of reducing the carbon footprint before putting forward applications for the installation of solar devices.
2. Any proposal to install solar energy collectors shall be based on a hierarchy of preferred locations starting with roofing not visible from public streets, then locations within rear gardens or on pergolas and only if none of these are viable because of orientation or overshadowing will HARC consider schemes which involve collectors on roofing areas or other locations visible from public streets.
3. Any proposals that include collectors and/or related equipment and cabling visible from public streets will be required to show (by way of calculation of energy outputs) that it is not possible to achieve similar performance from equipment located away from public view.
4. Installations shall not exceed power generation greater than that reasonably needed for the property. All applications must contain calculations of power outputs and on energy retained.

5. Character defining features of existing buildings (i.e. roofline, chimneys, and dormers) shall not be damaged or obscured when introducing new roof or exterior wall-mounted energy conservation systems.

6. All energy collection equipment shall be screened or hidden to the greatest possible while still achieving maximum function and effectiveness.

7. On pitched roofs, solar collector arrays shall run parallel to the original roofline and shall not rise above the peak of the roof. On flat roofs, solar collector arrays shall be set back from the parapet edge or wall/ roof conjunction and may be set at a slight pitch if not highly visible from public streets.

8. All energy collection equipment shall be considered part of the overall design of the structure. Color, shape and proportions of the solar collection array shall match the shape and proportions of the roof. Single installations on single-plane roofs are preferable to disjointed arrays or arrays on multiple roof planes. If more than one array is needed, it shall be limited to one panel section on each side of the structure if the arrays can not be placed on a rear location. Scattered or disjointed arrays are not appropriate.

9. All energy collection equipment shall not be mounted to project from walls or other parts of the building.

**Scuttles and Skylights**

1. ~~2. Modern~~ Plastic dome skylights are inappropriate in the historic district.

2. ~~3.~~ Original wood roof windows, scuttles and skylights should be retained and repaired wherever possible.

Section 2. 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 3rd day of April, 2012.

Read and passed on final reading at a regular meeting held this 1st day of May, 2012.

Authenticated by the presiding officer and Clerk of the Commission on 2nd day of May, 2012.

Filed with the Clerk on May 2, 2012.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

**Final Order No.: DEO-12-087**

2012 JUL 11 PM 4:54
CITY OF KEY WEST
KEY WEST, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: LAND DEVELOPMENT REGULATIONS ADOPTED BY THE CITY OF KEY WEST, FLORIDA, ORDINANCE NO. 12-07

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## FINAL ORDER

The Department of Economic Opportunity (the "Department") hereby issues its Final Order pursuant to §§ 380.05(6) and (11), Fla. Stat. (2011), approving a land development regulation adopted by a local government within the City of Key West Area of Critical State Concern by Ordinance No. 12-07 (the "Ordinance").

## FINDINGS OF FACT

1. Pursuant to Chapter 28-36, Florida Administrative Code, the City of Key West is a designated area of critical state concern.

2. The Ordinance was adopted by the City of Key West on May 1, 2012, and was rendered to the Department on June 5, 2012.

3. Section 90-142 of the City Code incorporates by reference the design guidelines adopted by the Historic Architectural Review Commission. Amendments to the design guidelines must be adopted by the City pursuant to the procedural requirements for amending the City's land development regulations.

4. The Ordinance adopts amendments to Chapter VI, Design Guidelines in the Key West Historic District, Articles [c] and [f], establishing design guidelines for solar energy collectors and other energy production devices.

## CONCLUSIONS OF LAW

5. 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 (11), Fla. Stat. (2011).

6. The City of Key West is an Area of Critical State Concern. § 380.05, Fla. Stat. (2011), and Rule 28-36.001, Fla. Admin. Code. The Principles for Guiding Development for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Fla. Admin. Code.

7. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2011). The design guidelines adopted by Key West Ordinance No. 12-07 are land development regulations.

8. Ordinance No. 12-07 is consistent with the Principles for Guiding Development, Rule 28-36.003, Florida Administrative Code, as a whole and is consistent with the following specific 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.

WHEREFORE, IT IS ORDERED that Key West Ordinance No. 12-07 is found to be consistent with the Principles for Guiding Development for 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 in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.

J. THOMAS BECK, AICP
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, 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, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND 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, 107 EAST MADISON STREET, MSC 110, TALLAHASSEE, FLORIDA 32399-4128.

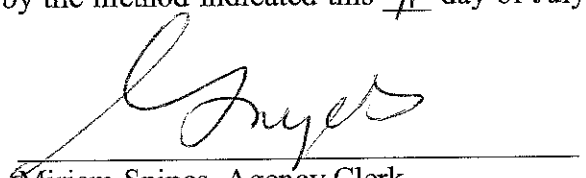
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE 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 9th day of July, 2012.



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

By U.S. Mail:

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

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

Donald L. Craig, AICP
Planning Director
City of Key West
P.O. Box 1409
Key West, FL 33041

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

By Hand Delivery or Interagency Mail:

Rebecca Jetton, ACSC Administrator, DEO Tallahassee
Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

## EXECUTIVE SUMMARY

**To:** Jim Scholl, City Manager

**From:** Donald Leland Craig, AICP, Planning Director

**Meeting Date:** April 3, 2012

**RE:** Amendments to HARC guidelines- Solar energy collectors or other energy production devices

**ACTION STATEMENT:**

Request: **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES FOR SOLAR ENERGY COLLECTORS OR OTHER ENERGY PRODUCTION DEVICES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.**

Location: Historic Zoning Districts and contributing buildings and structures outside of the historic district listed in the city historic preservation survey

**BACKGROUND:** Sustainability and energy efficiency in the historic district and historic structures has been issues of great concern among the citizens of Key West. During the past year the historic architectural review commission (HARC) initiated modifications to the Historic Architectural Guidelines to clarify and strengthen the review process when a citizen submits a Certificate of Appropriateness application for solar energy collectors or other energy production devices. After numerous public meetings where draft language was reviewed and discussed, HARC recommended approval of proposed guideline changes on May 24, 2011. On November 16, 2011 the Planning Board approved the proposed changes.

The new proposed "*solar energy collectors or other energy production devices*" provisions offer informative guidance to citizens and general public on the appropriateness of the installation of energy production devices without affecting the historical character of the district and of historic buildings. Importantly, because many of these devices can adversely affect the historic fabric of a building and the overall integrity of the historic district, which is listed in the National Register of Historic Places, the guidelines are necessary.

The proposed guidelines are objective and promote a hierarchy of preferred locations while requiring technical data from the applicant seeking a Certificate of Appropriateness.

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.

HARC Guidelines are generally not discretionary. Since 2002 the Guidelines have been incorporated by reference into the Land Development Regulations, Sec. 90-142, and therefore they are regulatory tools. Any amendment to the Guidelines must follow the same process as an amendment to the Land Development Regulations.

**PREVIOUS CITY ACTIONS:**

| | |
|---|---|
| HARC Recommendation of Approval: | May 24, 2011 |
| Planning Board Approval: | November 16, 2011 |

**PROCESS:** The ordinance will require two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the DCA, who will have 60 days to issue an order of consistency. A draft and the final version of the ordinance will be sent to the State of Florida Department of State Division of Historical Resources as required by the city's Certified Local Government Agreement.

**REVIEW CRITERIA:**

**Land Development Regulations and City's Comprehensive Plan:** 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 planning director have worked together to review the guideline modifications proposed by HARC and to recommend changes to improve clarity and consistency with the overall Land Development Regulations and Building Code.

**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 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." Also Policy 1A-1.3.3, Entitled "Apply HARC Guidelines and Federal Standards in "reviewing and approving development proposals". The proposed ordinance is consistent with these and related Goals, Objectives and Policies in the Comprehensive Plan.

Because the proposed ordinance does not impact density or intensity, it 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 ordinance is 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 this proposed ordinance. 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 ordinance will have no impact on land uses.

**(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 ordinance is intended to address HARC Guidelines and will have no negative impact on concurrency requirements or the provision of public facilities. The ability to place solar collectors on historic structures will be positive for the natural environment.

**(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 ordinance is 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 ordinance promotes the preservation of the historic character and the integrity of the historic district. This proposal creates a balance between sustainability issues and historic preservation. Protecting the historic fabric of buildings and the historic district 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 provide consistency throughout the code.

**(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 ordinance does not appear to be in conflict with the public interest. By the contrary, the proposed guidelines modifications were created after a consensus between sustainability and historic preservation advocates was achieved. The proposed guidelines provide specific standards as to how HARC will review Certificates of Appropriateness

for installation of solar energy collectors or other energy production or restoration devices.

**(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.

**City's Strategic Plan:** The 2011 Strategic Plan that the City Commission approved by Resolution 11-171 includes under The Environment the following goals:

**Goal #1: A natural environment that enhances the "Key West experience" for residents and visitors alike**

**Objective: Ongoing protection and monitoring of our local environment**

**Initiatives:**

- **Implement the Guidelines spelled out in the Key West Climate Action Plan in each city department using the recommended checklist process to be signed and posted on the city website annually**

The proposed guidelines address a main issue on sustainability and historic preservation and how both can be achieved without jeopardizing the historic character of our historic district and individually recognized contributing structures. The new proposed "*solar energy collectors or other energy production devices*" provisions provide objective guidelines to our citizens on how energy production devices can be installed without compromising the historic character of Old Town and historic buildings.

Under the Key West Climate Action Plan there are specific recommendations for the revision of HARC guidelines. One of those recommendations includes the revision of actual guidelines for solar collector devices. This proposed ordinance achieves such suggestions.

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

**Option 1:** Approve the proposed ordinance.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan includes natural environment issues and mentions the Climate Action Plan which includes specific recommendations regarding revisions to HARC guidelines for solar collector devises.
2. **Financial Impact:** The proposed ordinance will not have any financial impact to the city.

**Option 2:** Do not approve the proposed ordinance.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan includes natural environment issues and mentions the Climate Action Plan which includes specific recommendations regarding revisions to HARC guidelines for solar collector devises. If not approved there will be no revisions to the recommendations incorporated in the Climate Action Plan regarding HARC guidelines.

2. **Financial Impact:** There is no direct financial impact to the city if the ordinance is not adopted.

**Recommendation**

The Planning Department recommends **approval** of Option 1.

**RESOLUTION NUMBER 2011-051**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD RECOMMENDING APPROVAL OF AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES FOR SOLAR ENERGY COLLECTORS OR OTHER ENERGY PRODUCTION DEVICES 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 amendments to clarify guidelines relevant to solar energy collectors or other energy production devices, scuttles and skylights;

**WHEREAS,** the planning board held a noticed public hearing on November 16, 2011, where based on the consideration of recommendations by the planning director, 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



RMK Chairman

DC Planning Director

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.

**Section 2.** That is hereby recommended for approval of **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES FOR SOLAR ENERGY COLLECTORS OR OTHER ENERGY PRODUCTION DEVICES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**; 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 chairman of the planning board, the planning director and the city clerk.

Read and passed on first reading at a special meeting held this 16th day of November, 2011.



_____ Chairman

_____ Planning Director

Authenticated by the Chairman of the planning board and the planning director.

11/22/2011

Richard Klitenick, Chairman
Key West Planning Board

Date

**Attest:**

11/22/2011

Donald Leland Craig, AICP
Planning Director

Date

**Filed with the Clerk:**

Cheryl Smith

Cheryl Smith
City Clerk

Date



____ Chairman

____ Planning Director

# Draft
# Ordinance

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO THE HISTORIC ARCHITECTURAL REVIEW COMMISSION GUIDELINES FOR SOLAR ENERGY COLLECTORS OR OTHER ENERGY PRODUCTION DEVICES AS REFERENCED IN SECTION 90-142 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.**

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**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 clarify and strengthen the review process when a citizen submits a Certificate of Appropriateness application for solar energy collectors or other energy production devices; and

DRAFT

**WHEREAS**, the planning board held a noticed public hearing on ____, where based on the consideration of recommendations by the planning director, city attorney, building official and other information recommended approval of the proposed amendments;

**WHEREAS**, the city commission held a noticed public hearing on _____ 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 [c] Roofing and [f] Solar collectors, scuttles and skylights, of the Historical Architectural Guidelines dated May 7, 2002, are amended as follows:

Article [c] Roofing, Page 26;

5. The public view of the roofline should not be altered by the addition of new features such as dormers, scuttles, vents or skylights. Such features may be allowed on roof surfaces not visible from a public right of way. ~~Solar collectors,~~

~~scuttles and skylights may be installed on roof surfaces not visible from principal right of way; HARC will review each application on a case by case.~~

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**Solar ~~Collectors, Scuttles & Skylights~~ Energy Collectors or other Energy Production Devices**

Introduction paragraphs:

HARC is supportive of the citizen's of Key West awareness of sustainability and energy efficiency issues. The retention and adaptive use of historic buildings preserves the materials, embodied energy, and human capital already expended in their construction. The reuse of buildings is one of the greener practices in the overall promotion of sustainability.

HARC believes that energy conservation in historic buildings can be accomplished responsibly without compromising the qualities that define their historic character. In an effort to promote the reduction of carbon footprint and energy conservation HARC suggests the following recommendations to our citizens: use of energy rated appliances and mechanical equipment, reuse and use of existing cisterns, preservation and reuse of as much historic materials as possible, planting trees and installation of insulation materials on ceilings, roofs and walls.

~~1. New solar collectors, scuttles and skylights should be flat mounted directly on the roof so that they do not destroy the roofline by protruding unduly from the~~

~~surface of the roof, and can only be placed on roof surfaces not visible from a public right of way.~~

1. HARC supports the introduction of new and emerging technology for renewable energy but will seek to achieve this by ensuring equipment is installed without permanent detriment to the historic fabric already established in the district and the least visual impact to buildings and streetscapes HARC's goal is high performance conservation with low public visibility. HARC recommends applicants exhaust all other ways of reducing the carbon footprint before putting forward applications for the installation of solar devices.
2. Any proposal to install solar energy collectors shall be based on a hierarchy of preferred locations starting with roofing not visible from public streets, then locations within rear gardens or on pergolas and only if none of these are viable because of orientation or overshadowing will HARC consider schemes which involve collectors on roofing areas or other locations visible from public streets.
3. Any proposals that include collectors and/or related equipment and cabling visible from public streets will be required to show (by way of calculation of energy outputs) that it is not possible to achieve similar performance from equipment located away from public view.
4. Installations shall not exceed power generation greater than that reasonably needed for the property. All applications must contain calculations of power outputs and on energy retained.

5. Character defining features of existing buildings (i.e. roofline, chimneys, and dormers) shall not be damaged or obscured when introducing new roof or exterior wall-mounted energy conservation systems.

6. All energy collection equipment shall be screened or hidden to the greatest possible while still achieving maximum function and effectiveness.

7. On pitched roofs, solar collector arrays shall run parallel to the original roofline and shall not rise above the peak of the roof. On flat roofs, solar collector arrays shall be set back from the parapet edge or wall/ roof conjunction and may be set at a slight pitch if not highly visible from public streets.

8. All energy collection equipment shall be considered part of the overall design of the structure. Color, shape and proportions of the solar collection array shall match the shape and proportions of the roof. Single installations on single-plane roofs are preferable to disjointed arrays or arrays on multiple roof planes. If more than one array is needed, it shall be limited to one panel section on each side of the structure if the arrays can not be placed on a rear location. Scattered or disjointed arrays are not appropriate.

9. All energy collection equipment shall not be mounted to project from walls or other parts of the building.

**Scuttles and Skylights**

1. ~~2. Modern~~ Plastic dome skylights are inappropriate in the historic district.

2. ~~3.~~ Original wood roof windows, scuttles and skylights should be retained and repaired wherever possible.