

ORDINANCE NO. 12-14

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTION 102-217 "REQUIRED PUBLIC MEETINGS", RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS,** The City Commission for the City of Key West recognizes that the historic district has numerous illegal and unpermitted buildings and structures; and

**WHEREAS,** The City Commission for the City of Key West recognizes that the existence of these illegal and unpermitted buildings and structures pose a threat to the health, safety and welfare to the citizens and visitors of the City of Key West; and

**WHEREAS,** the City Commission for the City of Key West finds that expanding the authority to staff approve a HARC certificate of appropriateness for the demolition of non-contributing, non-historic buildings or structures that are part of a code case will hasten the process to bring properties in the historic district into compliance with the code of ordinances thereby promoting the health, safety

and welfare of citizens and visitors of the City of Key West; and

**WHEREAS**, the City Commission for the City of Key West finds that reducing the number of hearings before the historic architectural review commission from two to one regarding the demolition of non-contributing, non-historic buildings or structures in the historic district that are not part of a code compliance case will serve to promote a more accurate historic fabric and hasten the process for property owners to enhance their properties and property values in the historic district; and

**WHEREAS**, the City Commission for the City of Key West finds that there exists several historic, contributing properties that are located outside of the historic district and are presently otherwise under the jurisdiction of HARC for all architectural matters except regarding demolitions,

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

Sec. 102-216. - Submission of application to historic architectural review commission.

Application for a certificate of appropriateness for any demolition of a building or structure located within a designated historic zoning district, and contributing buildings or structures that are located outside of the historic district shall be submitted by the property owner to the historic architectural review commission.

Sec. 102-217. - Required public meetings and staff approval.

(1) The historic preservation planner shall have the authority to staff approve the demolition of a non-historic, non-contributing building or structure in the historic district that is part of a bone fide code compliance case after written consent from the city planner and the city attorney. If the required written approvals herein are not obtained, then subsection (2) below shall be applicable.

(2) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a non-historic or non-contributing building or

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

structure located in a designated historic zoning district except after conclusion of one regular historic architectural review commission meeting.

(3) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a historic or contributing building or structure located in a designated historic zoning district, or that is a contributing building or structure that is outside of the historic district except after conclusion of two regular historic architectural review commission meetings regarding the application, which shall be at least 14 days apart, and which meetings shall be advertised at least five days in advance in a newspaper of general circulation published in the city. Notice of the meetings shall be published as for a regular meeting, pursuant to section 90-143.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable there from and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature 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 May, 2012.

Read and passed on final reading at a regular meeting held this 5th day of June, 2012.

Authenticated by the presiding officer and Clerk of the Commission on 5th day of June, 2012.

Filed with the Clerk June6, 2012.

  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

  
\_\_\_\_\_  
CRAIG CATES, MAYOR

**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY THE CITY OF KEY WEST,  
FLORIDA, ORDINANCE NO. 12-14

2012 AUG -6 PM 3:37  
KEY WEST, FLORIDA

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FINAL ORDER

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat. (2012), approving land development regulations adopted by the City of Key West, Florida, Ordinance No. 12-14 (the “Ordinance”).

FINDINGS OF FACT

1. The City of Key West is designated pursuant to § 380.05(1), Fla. Stat. (2012), and Chapter 28-36, Florida Administrative Code, as an area of critical state concern. Land development regulations adopted by the City of Key West do not become effective until approved by the Department by final order. §§ 380.05(6) and (11), Fla. Stat. (2012).
2. The Ordinance was adopted by the City of Key West on June 5, 2012, and rendered to the Department on July 5, 2012.
3. The Ordinance amends Chapter 102 of the City Code, entitled “Historic Preservation” by amending Sections 102-216 and 102-217 to relax the requirements to obtain approval to demolish non-historic and non-contributing buildings or structures in the Historic District, and to require an historic architectural review commission certificate of appropriateness in order to demolish contributing buildings and structures outside the Historic District.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11), Fla. Stat. (2012).

5. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2012). The regulations adopted by the Ordinance are land development regulations.

6. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and (11), Fla. Stat. (2012). 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), Florida Administrative Code.

7. The Ordinance is consistent with the Principles for Guiding Development as a whole, and specifically furthers the following Principles:

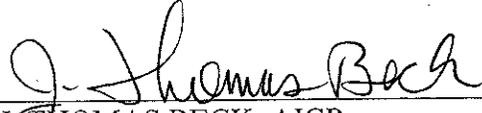
- (a) To strengthen local government capabilities for managing land use and development.
- (e) Protection of the historical heritage of Key West and the Key West Historical Preservation District.

8. The Ordinance is consistent with Objective 3-1.5 and Policy 3-1.5.2 of the City of Key West Comprehensive Plan.

WHEREFORE, IT IS ORDERED that City of Key West Ordinance No. 12-14 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 timely 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 ECONOMIC OPPORTUNITY 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:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF GENERAL COUNSEL  
107 EAST MADISON STREET, MSC 110  
TALLAHASSEE, FLORIDA 32399-4128.

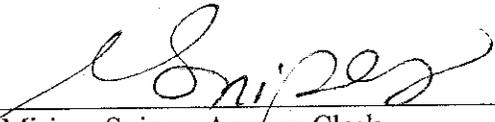
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE 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 was 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 2nd day of August, 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  
3216 Flagler Avenue  
Key West, FL 33040

Cheryl Smith, City Clerk  
3216 Flagler Avenue  
Key West, FL 33040

Donald Leland Craig, AICP  
City Planner  
3140 Flagler Avenue  
Key West, FL 33040

By Hand Delivery or Interagency Mail:

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

OFFICE OF THE CITY ATTORNEY



PHONE: (305) 809-3770  
FAX: (305) 809-3771

## THE CITY OF KEY WEST

POST OFFICE BOX 1409  
KEY WEST, FL 33041-1409  
WWW.KEYWESTCITY.COM

### EXECUTIVE SUMMARY

To: The City Commission for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: April 23, 2012  
RE: Demolitions in the Historic District ordinance revision

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Mr. Mayor and City Commissioners:

**Background:**

I was asked to draft a proposed ordinance revision by HARC with the support of city management to revise the Land Development Regulations concerning demolitions in the historic district as well as contributing buildings and structures that are located outside of the historic district. Specifically, the proposal relaxes the requirement from 2 readings to 1 for the demolition of any non-contributing or non-historic building or structure within the historic district. Also, the requirement of 2 readings for the demolition of non-historic or non-contributing buildings or structures within the historic district that concern code compliance case can be staff approved if written approvals are issued by the city attorney and the city planner. If both officials do not agree, then said application shall be brought before HARC for 1 reading. All of the noticing and posting requirements shall remain applicable.

It is the intent of HARC and city management to expedite the process for demolitions in the historic district and even more so when there is a code case requiring some level of demolition for compliance. There has been more than one occasion in the recent past

where a Respondent in a code case is told to demolish an illegal structure or face fines, but then also face a time consuming process to get a permit to demolish and thus come into compliance.

Furthermore, the undersigned has reviewed the criteria for approving amendments to the official zoning map and land development regulations contained in 90-521 and 90-522.

The analysis is as follows:

1. *Consistency with plan:* This proposal is not inconsistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program. Non-historic and non-contributing buildings and structures do not contribute to the historic fabric.
  2. *Conformance with requirements:* This proposed ordinance is in conformance with all applicable requirements of the Code of Ordinances by encouraging the removal of non-compliant buildings and structures.
  3. *Changed conditions:* Neither "land use" nor "development conditions" would change as a result of the adoption of this ordinance revision. This proposal simply seeks to recognize the need to expedite the process of bringing non-historic and non-contributing buildings and structures in the historic district into compliance with the code of ordinances when a said nonconformity is subject to a code violation. Further, the proposed revision seeks to reduce the number of required public meetings from two to one for the demolition of said non-historic and non-contributing buildings and structures in the historic district that are not part of a code violation. Finally, the proposed revision recognizes the need to submit an application to the Historic Architectural Review Commission concerning demolition for those contributing buildings that are located outside of the historic district and otherwise under the jurisdiction of the Historic Architectural Review Commission.
  4. *Land use compatibility:* This proposed ordinance revision will not create any incompatible land uses and will in fact promote further compatibility with the historic fabric by expediting the demolition process of non-historic and non-contributing structures.
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5. *Adequate public facilities:* The adoption of this ordinance revision would not impose any additional impacts on any public facilities, services including transportation, water, wastewater, solid waste, disposal, drainage, recreation, education, or emergency services and will in fact reduce utility consumption by expediting the demolition process of non-historic and non-contributing structures; especially those that contain utilities.
  6. *Natural Environment:* The adoption of this ordinance revision would not impose any additional adverse impact to the natural environment.
  7. *Economic Effects:* This proposed ordinance revision will have a positive economic effect on property values in the area by encouraging the removal of non-compliant buildings and structures.
  8. *Orderly development:* The adoption of this ordinance revision will not create a negative effect on any "land use pattern".
  9. *Public interest; enabling act:* The adoption of this ordinance revision serves the public interests in promoting properties that are in compliance with the Florida Building Code and the Code of Ordinances.
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Options:

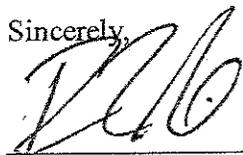
1. To pass the proposed ordinance revision to the L.D.R.'s, thereby relaxing the required HARC readings for demolitions in the historic district only concerning non-historic or non-contributing buildings or structures.
2. To defeat the proposed revision and the existing ordinances will continue to be enforced.

Recommendation:

To pass the proposed ordinance revision.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Ron Ramsingh, Esq.

**PLANNING BOARD  
RESOLUTION NO. 2012-11**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD  
RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDMENT OF THE CITY OF KEY WEST, FLORIDA,  
AMENDING CHAPTER 102 ENTITLED "HISTORIC  
PRESERVATION" BY AMENDING SECTION 102-217  
"REQUIRED PUBLIC MEETINGS", RELAXING THE  
REQUIREMENTS TO OBTAIN APPROVAL TO  
DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING  
BUILDINGS OR STRUCTURES IN THE HISTORIC  
DISTRICT AND INCLUDING CONTRIBUTING  
BUILDINGS AND STRUCTURES OUTSIDE OF THE  
HISTORIC DISTRICT IN SECTION 102-216; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR REPEAL OF  
INCONSISTENT PROVISIONS; PROVIDING FOR AN  
EFFECTIVE DATE.**

WHEREAS, the Planning Department prepared an amendment to the Land Development Regulations to provide for modifications of the requirements to obtain approval for demolition of non-historic and non contributing buildings or structures in the historic district and included new requirements to obtain approval for demolition of contributing buildings and structures outside of the historic district;

WHEREAS, the Planning Board held a noticed public hearing on March 27, 2012, 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

  
Chairman

  
Planning Director

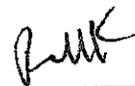
consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; 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.

**Section 2.** That AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTION 102-217 "REQUIRED PUBLIC MEETINGS", RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE is hereby recommended for approval; a copy of the draft ordinance is attached.

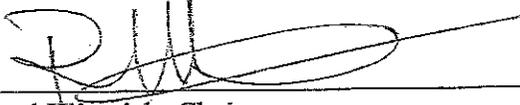
**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

 \_\_\_\_\_ Chairman

 \_\_\_\_\_ Planning Director

Read and passed on first reading at a special meeting held this 27th day of March, 2012.

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



Richard Klitenick -Chairman  
Key West Planning Board

4/9/2012  
Date

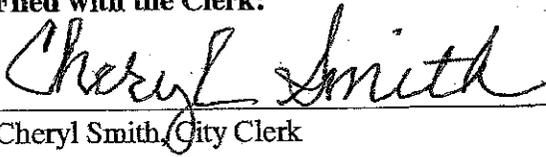
Attest:



Donald Leland Craig, AICP  
Planning Director

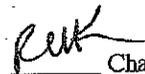
3.30.12  
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

4-10-12  
Date

  
Chairman

  
Planning Director

**Draft  
Ordinance**

*Perk* *al*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTION 102-217 "REQUIRED PUBLIC MEETINGS", RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS,** The City Commission for the City of Key West recognizes that the historic district has numerous illegal and unpermitted buildings and structures; and

**WHEREAS,** The City Commission for the City of Key West recognizes that the existence of these illegal and unpermitted buildings and structures pose a threat to the health, safety and welfare to the citizens and visitors of the City of Key West; and

**WHEREAS,** the City Commission for the City of Key West finds that expanding the authority to staff approve a HARC certificate of appropriateness for the demolition of non-contributing, non-historic buildings or structures that are part of a code case will hasten the process to bring properties in the historic district into compliance with the code of ordinances thereby promoting the health, safety

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and welfare of citizens and visitors of the City of Key West; and

**WHEREAS,** the City Commission for the City of Key West finds that reducing the number of hearings before the historic architectural review commission from two to one regarding the demolition of non-contributing, non-historic buildings or structures in the historic district that are not part of a code compliance case will serve to promote a more accurate historic fabric and hasten the process for property owners to enhance their properties and property values in the historic district; and

**WHEREAS,** the City Commission for the City of Key West finds that there exists several historic, contributing properties that are located outside of the historic district and are presently otherwise under the jurisdiction of HARC for all architectural matters except regarding demolitions,

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

Sec. 102-216. - Submission of application to historic architectural review commission.

*RAW*  
*or*

Application for a certificate of appropriateness for any demolition of a building or structure located within a designated historic zoning district, and contributing buildings or structures that are located outside of the historic district shall be submitted by the property owner to the historic architectural review commission.

Sec. 102-217. - Required public meetings and staff approval.

- (1) The historic preservation planner shall have the authority to staff approve the demolition of a non-historic, non-contributing building or structure in the historic district that is part of a bone fide code compliance case after written consent from the city planner and the city attorney. If the required written approvals herein are not obtained, then subsection (2) below shall be applicable.
- (2) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a non-historic or non-contributing building or

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

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OC

structure located in a designated historic zoning district except after conclusion of one regular historic architectural review commission meeting.

(3) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a historic or contributing building or structure located in a designated historic zoning district, or that is a contributing building or structure that is outside of the historic district except after conclusion of two regular historic architectural review commission meetings regarding the application, which shall be at least 14 days apart, and which meetings shall be advertised at least five days in advance in a newspaper of general circulation published in the city. Notice of the meetings shall be published as for a regular meeting, pursuant to section 90-143.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable there from and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

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Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

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

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

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Filed with the Clerk \_\_\_\_\_, 2012.

\_\_\_\_\_  
CRAIG CATES, MAYOR

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

LUK  
of



## THE CITY OF KEY WEST

POST OFFICE BOX 1409  
KEY WEST, FL 33041-1409  
WWW.KEYWESTCITY.COM

### EXECUTIVE SUMMARY

To: The Planning Board for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: February 2, 2012  
RE: Demolitions in the Historic District ordinance revision

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Mr. Chairman and Planning Board members:

**Background:**

I was asked to draft a proposed ordinance revision by HARC with the support of city management to revise the Land Development Regulations concerning demolitions in the historic district as well as contributing buildings and structures that are located outside of the historic district. Specifically, the proposal relaxes the requirement from 2 readings to 1 for the demolition of any non-contributing or non-historic building or structure within the historic district. Also, the requirement of 2 readings for the demolition of non-historic or non-contributing buildings or structures within the historic district that concern code compliance case can be staff approved if written approvals are issued by the city attorney and the city planner. If both officials do not agree, then said application shall be brought before HARC for 1 reading. All of the noticing and posting requirements shall remain applicable.

It is the intent of HARC and city management to expedite the process for demolitions in the historic district and even more so when there is a code case requiring some level of demolition for compliance. There has been more than one occasion in the recent past

where a Respondent in a code case is told to demolish an illegal structure or face fines, but then also face a time consuming process to get a permit to demolish and thus come into compliance.

Furthermore, the undersigned has reviewed the criteria for approving amendments to the official zoning map and land development regulations contained in 90-521 and 90-522.

The analysis is as follows:

1. *Consistency with plan:* This proposal is not inconsistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program. Non-historic and non-contributing buildings and structures do not contribute to the historic fabric.
  2. *Conformance with requirements:* This proposed ordinance is in conformance with all applicable requirements of the Code of Ordinances by encouraging the removal of non-compliant buildings and structures.
  3. *Changed conditions:* Neither "land use" nor "development conditions" would change as a result of the adoption of this ordinance revision. This proposal simply seeks to recognize the need to expedite the process of bringing non-historic and non-contributing buildings and structures in the historic district into compliance with the code of ordinances when a said nonconformity is subject to a code violation. Further, the proposed revision seeks to reduce the number of required public meetings from two to one for the demolition of said non-historic and non-contributing buildings and structures in the historic district that are not part of a code violation. Finally, the proposed revision recognizes the need to submit an application to the Historic Architectural Review Commission concerning demolition for those contributing buildings that are located outside of the historic district and otherwise under the jurisdiction of the Historic Architectural Review Commission.
  4. *Land use compatibility:* This proposed ordinance revision will not create any incompatible land uses and will in fact promote further compatibility with the historic fabric by expediting the demolition process of non-historic and non-contributing structures.
-

5. *Adequate public facilities:* The adoption of this ordinance revision would not impose any additional impacts on any public facilities, services including transportation, water, wastewater, solid waste, disposal, drainage, recreation, education, or emergency services and will in fact reduce utility consumption by expediting the demolition process of non-historic and non-contributing structures; especially those that contain utilities.
  6. *Natural Environment:* The adoption of this ordinance revision would not impose any additional adverse impact to the natural environment.
  7. *Economic Effects:* This proposed ordinance revision will have a positive economic effect on property values in the area by encouraging the removal of non-compliant buildings and structures.
  8. *Orderly development:* The adoption of this ordinance revision will not create a negative effect on any "land use pattern".
  9. *Public interest; enabling act:* The adoption of this ordinance revision serves the public interests in promoting properties that are in compliance with the Florida Building Code and the Code of Ordinances.
- 

Options:

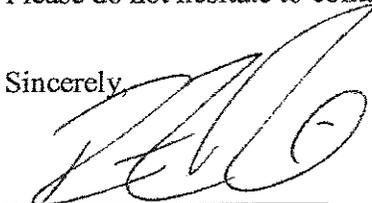
1. To pass the proposed ordinance revision to the L.D.R.'s, thereby relaxing the required HARC readings for demolitions in the historic district only concerning non-historic or non-contributing buildings or structures.
2. To defeat the proposed revision and the existing ordinances will continue to be enforced.

Recommendation:

To pass the proposed ordinance revision.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Ron Ramsingh, Esq.

**Draft  
Resolution**