



Historic Architectural Review Commission Staff Report for Item 21

To: Chairman Bryan Green and Historic Architectural Review
Commission Members

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Prevention of Demolition by Neglect, Affirmative Maintenance Ordinance for the Historic District

In an effort to continue the revision of current HARC Guidelines and Ordinances, it is imperative that the prevention of demolition by neglect be a priority in such task. As per today, the chief building officer has declared several historic buildings as unsafe due to neglect. Many other historic structures deteriorate in front of our eyes and no actions are taken to protect and preserve them. The City must prevent the loss and neglect of more historic buildings.

The City of Key West adopted Comprehensive Plan contains a historic preservation element. The Comprehensive Plan is the basis of all Land Development decisions within the city. The historic preservation element clearly addresses the prevention of loss of historic structures. The following policies are part of the Plan:

OBJECTIVE 1A-1.2: DESIGNATED HISTORIC DISTRICTS AND LANDMARKS

Policy 1A-1.2.3: Related Incentives and Disincentives. The City shall maintain the protection of historic resources by providing disincentives from demolition, and affording property owners incentives for the maintenance and rehabilitation of historic structures, as well as other appropriate methods.

Policy 1A-1.2.10: Prevent Loss of Historic Structures. There shall be no loss of historic resources on City-owned properties. Sensitive adaptive re-use of historic structures shall be encouraged as an alternative to demolition. Amended Land Development Regulations shall encourage that historic resources on private property will be protected, preserved, or re-used in a manner sensitive to the historic

properties of the site and/or structure. Reference Objective 5-1.9 of the Coastal Management Element.

OBJECTIVE 1A-5.1: PROTECT PRESERVATION OF HOUSING

Policy 1A-5.1.2: Enforcement Activities. Demolition of historically significant housing in the Historic District shall be discouraged through the enforcement of the Building Code and application of strict code enforcement activities and by encouraging effective maintenance and rehabilitation.

Chapter 102 of the Land Development Regulations- Historic District, does not contain any provision pertaining prevention of neglected buildings or the affirmative maintenance of resources within the historic district. Still it contains the following Section:

Sec. 102-221. - Unsafe structures.

If the chief building official determines that any structure within a designated historic site or designated historic district is unsafe pursuant to the applicable sections of the Code of Ordinances, the chief building official will immediately notify the historic architectural review commission of the findings. The unsafe condition shall include structures deemed by the chief building official to be undergoing demolition by the property owner's neglect of maintenance responsibilities. Where appropriate and in accordance with applicable ordinances, the chief building official will attempt to have the owner or other appropriate party repair the structure rather than order it to be demolished and will take into consideration any comments and recommendations by the historic architectural review commission. However, the provisions contained within sections [102-187](#) through [102-190](#) and this division 3 shall not apply to the chief building official's declaration that a building is unsafe, nor will the chief building official be precluded from taking such steps as may be required by applicable ordinances to protect the public health and safety of the community. The historic architectural review commission may also endeavor to negotiate with the owner and interested parties, provided such actions do not interfere with procedures in the applicable ordinances.

Moreover, the Code of Ordinances under Chapter 14- Buildings and Building Regulations includes some regulations that address missing parts of a building and unfit buildings for human habitation. Are the existing regulations enough to prevent the loss of more historic structures do to neglect?

It is our opinion that Chapter 102 must include a specific section for affirmative maintenance of buildings and structures within the historic district zones. For that, there MUST be a revision to the Economic Hardship ordinance in cases where the owner of a building cannot afford the required repairs. In addition, the ordinance must address cases when a building or structure is under a trust or more than one ownership. Lastly, the

component of enforcement is paramount in order to achieve the main goal of not allowing buildings to be demolished due to neglect.





The following are regulations under the Code of Ordinances, Chapter 14 regulations:

- **Sec. 14-67. - Standard Unsafe Building Abatement Code adopted.**

The 1985 edition of the Standard Unsafe Building Abatement Code, as adopted by the Southern Building Code Congress International, Inc., is adopted and made a part of the Code of Ordinances for the purpose of regulating nuisances, dwellings unfit for habitation, and dangerous buildings and providing for the abatement of such conditions.

- **Sec. 14-68. - Duties of official.**

(a) The powers conferred upon the chief building official by this article shall be in addition and supplemental to the powers conferred upon the chief building official by any other section of this Code or city ordinance.

(b) The chief building official shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article. Without limiting the generality of the foregoing, the chief building official shall have the following powers, in addition to others granted, to:

(1) Investigate dwelling and building conditions in the city in order to determine which dwellings therein are unfit for human habitation and which buildings are dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this article.

(2) Administer oaths, affirmations and examine witnesses and receive evidence.

(3) Enter upon and within premises, dwellings and buildings for the purposes of making examinations and investigations, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purpose of this article.

(5) Delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Code 1986, § 31.021; Ord. No. 15-06, § 1, 4-7-2015)

- **Sec. 14-69. - Examination of dwellings and buildings.**

It shall be the duty of the chief building official to diligently examine all dwellings and buildings located in the city for the purpose of locating and taking action with respect to such dwellings and buildings as appear to be unfit for human habitation and such buildings as appear to be dangerous.

(Code 1986, § 31.022; Ord. No. 15-06, § 1, 4-7-2015)

- **Sec. 14-70. - Reports required of employees of fire, police and health departments.**

The employees of the fire department, police department and health department shall make a report in writing to the chief building official of every building or structure which is, may be, or is suspected of being unfit for human habitation or a dangerous building within the terms of this article. Such report shall be delivered to the chief building official within 48 hours of the discovery of such building or dwelling by the employee of the fire, police or health department.

(Code 1986, § 31.032; Ord. No. 15-06, § 1, 4-7-2015)

- **Sec. 14-71. - Conditions rendering dwelling unfit or building dangerous.**

The chief building official shall determine that a dwelling is unfit for human habitation or a building is dangerous if he finds that any of the following conditions exist in such dwelling:

(1) Interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside the middle third of its base.

(2) Supporting members which show 33 percent or more of damage or deterioration, or nonsupporting enclosing or outside walls or coverings which show 50 percent or more of damage or deterioration.

(3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.

(4) Such damage by fire, wind or other causes as endangers the lives, safety or welfare of the occupants or other people in the city.

(5) Dilapidation, decay, insanitation or disrepair which is likely to cause sickness or disease or to work injury to the health, safety or welfare of the occupants or other people of the city.

(6) Inadequate facilities for egress in case of fire or panic.

(7) Defects therein increasing the hazards of fire, accident or other calamities.

(8) Such lack of adequate ventilation, light, heating or sanitary facilities as endanger the health, morals, safety or general welfare of the occupants or other city residents.

(9) Violation of any provision of the building regulations or fire prevention laws or ordinances of the state or city.

(10) Any room, except a bathroom, with window area less than one-tenth of the floor area or with window area of one-tenth or more of the floor area, but which window area cannot be opened so that the openings will equal as much as 1/20 of the floor area.

(11) A bathroom which does not have at least one outside window which can be opened or does not have other means of adequate ventilation.

(12) Such relationship to adjoining buildings or dwellings that light or air is inadequate or that a fire hazard exists.

(Code 1986, § 31.023; Ord. No. 15-06, § 1, 4-7-2015)

- **Sec. 14-72. - Minimum facilities.**

(a) A dwelling shall be construed by the chief building official to be unfit for human habitation or a dangerous building, and he shall so find, if the dwelling does not have minimum facilities consisting of the following:

(1) Inside running water and an installed kitchen sink.

(2) Inside bathing facilities which shall consist of an installed tub or shower.

(3) An installed water closet. If the water closet is built on a porch, it shall be enclosed for privacy and from the weather, with running water.

(4) Installed electric lighting facilities.

(5) Screens provided to effectively cover all outside openings such as windows, doors, etc., with mesh of such fineness as is ordinarily used in dwelling units to prevent the entrance of flies, mosquitoes and other similar pests.

(b) All of the minimum requirements in subsection (a) of this section shall be constructed and installed in accordance with the applicable sections of this Code or city ordinances.

(Code 1986, § 31.024; Ord. No. 15-06, § 1, 4-7-2015)

- **Sec. 14-73. - Dangerous buildings.**

It is found as a fact that there exist in the city buildings which are dangerous due to dilapidation; due to defects increasing the hazards of fire, accident or other calamities; due to lack of ventilation, light or sanitary facilities; and due to other conditions rendering such buildings unsafe, insanitary or detrimental to the health, safety or morals, or otherwise inimical to the welfare, of the city residents.

(Code 1986, § 31.020)

- **Sec. 14-74. - Nuisances.**

Any building, part of any building, charred parts or remains of any building, or any structure or debris which may be on any premises within the city limits and that may be dangerous to the safety of the people of the city or to adjacent property or that may be a fire menace or that may be injurious to the health of the people or against the sanitary regulations of the city or of the state or the state board of health is declared a nuisance and shall be abated in the manner as provided in division 1 of article II of [chapter 26](#).

(Code 1986, § 31.018)

Cross reference— Nuisances, [§ 26-31](#) et seq.

- **Sec. 14-75. - Existence of dwellings unfit for habitation.**

It is found as a fact that there exist in the city dwellings which are unfit for human habitation due to dilapidation; due to defects increasing the hazards of fire, accident or other calamities; due to lack of ventilation, light or sanitary facilities; and due to other conditions rendering such dwellings unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare, of the city residents.

(Code 1986, § 31.019)

- **Sec. 14-76. - Notification of demolition in historic district.**

(a) If the owner-occupant, agent or person in control of a contributing building in the city historic district seeks to obtain a permit for the demolition of the building or if a building in the historic district is condemned by the chief building official, it is incumbent upon and required of the chief building official not to issue such permit for demolition or proceed with the condemnation of such building until the chief building official gives written notice to the Historic Florida Keys Foundation, Inc., and Old Island Restoration Foundation, Inc., that such building is sought to be voluntarily demolished or that such building has been condemned and will be demolished under the authority and direction of the city commission, and the chief building official shall publish notice of the proposed demolition in a newspaper of general circulation in the city.

(b) Upon giving notice to the corporations named in subsection (a) of this section, the corporations or any of them shall have 30 days to advise the chief building official, in writing, that the corporation intends to negotiate with the owner-occupant, agent or person in control seeking to obtain a permit to demolish the building or the owner-occupant, agent or person in control of the building condemned and offer assistance to the owner-occupant, agent or person in control in the protection of the building for the purpose of removing the building, if voluntarily sought to be demolished, or restoring the building, if condemned, to meet the minimum requirements of the city building code. Upon such notification from the corporation, the chief building official shall not issue a permit for demolition or proceed with condemnation of such building for a period of 30 days.

(c) If the corporations show no interest in the building at the expiration of the 30 days, the chief building official shall either issue the permit to demolish the building or proceed with the condemnation of the building, if so condemned.

(Code 1986, § 31.041; Ord. No. 15-06, § 1, 4-7-2015)