

**Historic Architectural Review Commission**  
**Staff Report for Item 3**

**To:** Chairman Haven Burkee and Historic Architectural Review  
Commission Members

**From:** Enid Torregrosa Silva, MSHP  
Historic Preservation Planner

**Meeting Date:** March 26, 2024

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**Description of Text Amendment:**

Proposed text amendments to Chapter 102- and Article IV, Division 3 - Demolitions of the Land Development Regulations.

The Historic Preservation Element of the City’s Comprehensive Plan is the foundation of Chapter 102 and any other regulation under the Land Development Regulations and the City’s Code pertaining the preservation, protection, identification, and any treatment of historic resources and districts within the city’s boundaries. As my tenure of over 15 years will conclude soon, I find that through my experience the LDR’s lack of or have no stronger regulations that will achieve many of the policies and objectives that the Comprehensive Plan establishes under the Historic Preservation Element. While researching and consulting with coworkers after drafting a first version for regulations pertaining after-the fact demolitions it was evident that the proposed purpose of what I drafted should become the purpose of Chapter 102- Historic Preservation, as this Chapter does not have any written purpose.

The following policies of the Comprehensive Plan have been taken into consideration for this proposed text amendments:

- **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.

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- **Policy 1A-1.2.8: - Performance Standards.**

Performance standards for protecting sites of historic or archaeological significance shall be incorporated in amended Land Development Regulations, upon plan adoption, that address development safeguards to prevent the destruction or alteration of an historic site; the isolation from or alteration of the surrounding environment; the introduction of visual, auditory, or atmospheric elements that are out of character or alter its setting; vegetation removal unless part of a scientific excavation or an approved development plan; or other forms of neglect resulting in degradation of historic resources. Reference Policy 1-1.10.2 of the Land Use Element and Policy 5-1.9.2 of the Coastal Management Element.

- **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.

- **Policy 1A-5.1.4: - Maintain Unique Architectural Heritage of Historically Significant Housing Resources.**

The City's amended Land Development Regulations shall incorporate criteria for maintaining the unique architectural heritage of the Historic District's housing. HARC responsibilities in protection of historically significant housing and in evaluating alterations, renovations, and rehabilitation efforts shall be incorporated in the amended Land Development Regulations.

Staff is still working on Affirmative Maintenance regulations to prevent demolition by neglect and projects to present a draft to the text amendments in the upcoming meetings.

## Chapter 102

### Article I. IN GENERAL

#### Sec. 102-1. Purpose

The general purpose of these regulations is to protect and encourage the restoration, rehabilitation and preservation of sites and districts within the city having special historic, architectural, or archeological value to the public. This general purpose is reflected in the following specific goals:

- (1) The identification of historic sites and districts;
- (2) The protection of such historic sites and districts to combat urban blight, promote tourism, foster civic pride, and maintain physical evidence of the city's heritage;
- (3) The encouragement and promotion of restoration, preservation, rehabilitation and reuse of historic sites and districts by providing technical assistance, and facilitating the development review process;

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\*Coding: Added language is underlined, deleted language is ~~struck through~~.

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(4) The promotion of excellence in urban design by assuring the compatibility of restored, rehabilitated, or reused buildings or structures within designated historic districts; and

(5) The protection of all contributing, contributing altered buildings and structures in the city's designated historic zoning districts or on designated historic sites from unlawful demolition, demolition by neglect and the failure of property owners to maintain and preserve these structures.

**Sec. 102-1.1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alteration* means any change affecting the exterior appearance of an existing structure or improvement by additions, remodeling, maintenance or structural changes involving changes in form, texture, materials, or color or any such changes in appearance in a specially designated historic site or historic interior.

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## Chapter 102

### Article IV. CERTIFICATE OF APPROPRIATENESS

#### *DIVISION 3. DEMOLITIONS*

##### **Sec. 102-216. Demolition Policies**

The loss of individually listed buildings, structures or site in the National Register of Historic Places, contributing, contributing altered or any historic building or structure, shall be discouraged and prevented. It is hereby declared by the city commission that the preservation and conservation of the historic district and of properties of historical, architectural, and archeological merit in the city is a public policy of the city and is in the interest of the city's future prosperity.

##### **Sec. 102-216~~7~~ 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. 102-2178. 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 bona 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) Subject to the criteria contained in section 102-218, the historic preservation planner shall have the authority to staff approve the demolition of the following non-historic, non-contributing buildings or structures in the historic district, as long as there is no build back of any structure on the site, with the exclusion of a swimming pool:

(a) Awnings

(b) Carports

(c) Detached covered porches located on the rear of a property

(d) Gazebos

(e) Gatehouses

(f) Pavilions

(g) Pergolas

(h) Sheds

(i) Swimming pools and hot tubs

(j) Trellis and arbors

(k) Walls

The historic preservation planner shall have the authority to staff approve the demolition and, if necessary, reconstruction of non-historic, non-contributing staircases, decks 30 inches or taller, and fences that do not qualify as unsafe structures, pursuant to section 102-221, and that are in need to be demolished due to deterioration or building code requirements.

(3) The historic architectural review commission shall only issue a certificate of appropriateness for demolition of a historic but non-contributing, non-historic or non-contributing building or structure located in a designated historic zoning district, after conclusion of one regular historic architectural review commission meeting.

(4) The historic architectural review commission shall only issue a certificate of appropriateness for demolition of a historic and contributing 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.

**Sec. 102-2189. Criteria for demolitions.**

(a) The historic architectural review commission shall issue a certificate of appropriateness for an application for demolition:

(1) If the subject of the application is a contributing or historic building or structure, then it should not be demolished unless its condition is irrevocably compromised by extreme deterioration, or it does not meet any of the criteria of section 102-125(1) through (9).

(2) For a contributing historic or noncontributing building or structure, a complete construction plan for the site is approved by the historic architectural review commission.

(b) The historic architectural review commission shall not issue permits that would result in:

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- (1) Removing buildings or structures that are important in defining the overall historic character of a district or neighborhood so that the character is diminished;
- (2) Removing historic buildings or structures and thus destroying the historic relationship between buildings or structures and open space; and
- (3) Removing an historic building or structure in a complex; or removing a building facade; or removing a significant later addition that is important in defining the historic character of a site or the surrounding district or neighborhood.
- (4) Removing buildings or structures that would otherwise qualify as contributing, as set forth in section 102-62(3).

(c) Nothing in this section is intended to alter the authority of the Building Official to condemn for demolition dangerous buildings, as provided in chapter 14 of the Code of Ordinances.

**Sec. 102-~~219~~20. Denial of certificate of appropriateness.**

The historic architectural review commission's refusal to grant a certificate of appropriateness requested by a property owner for the purpose of demolition will be supported by a

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written statement describing the public interest that the historic architectural review commission seeks to preserve.

**Sec. 102-2201. Approval of certificate of appropriateness.**

(a) *Generally.* The historic architectural review commission may grant a certificate of appropriateness as requested by a property owner for demolition which may provide for a delayed effective date. The effective date of the certificate will be determined by the historic architectural review commission based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition.

(b) *Delay of demolition.* The historic architectural review commission may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six months, while demolition of noncontributing buildings within the historic district may be delayed for up to three months.

(c) *Historic architectural review commission actions during delay period.* During the demolition delay period, the historic architectural review commission may take such steps as its deems necessary to preserve the structure concerned and ensure that the structure is secure and stabilized. Such steps may include but are not limited to consultation with

community groups, public agencies, and interested citizens; recommendations for acquisition of property by public or private bodies or agencies; and exploration of the possibility of moving one or more structures or other features.

(d) *Special historic architectural review commission requests precedent to demolition.* The historic architectural review commission may, with the consent of the property owner, request that the owner, at the owner's expense, salvage and preserve specified classes of building materials, architectural details and ornaments, fixtures and the like for reuse in the restoration of other historic properties. The historic architectural review commission may, with the consent of the property owner, request that the Historic Florida Keys Foundation or the owner, at the owner's expense, record the architectural details for archival purposes prior to demolition. The recording may include but shall not be limited to photographs, videotaping, documents, and scaled architectural drawings. At the historic architectural review commission's option, and with the property owner's consent, the historic architectural review commission or the Historic Florida Keys Foundation may salvage and preserve building

materials, architectural details, and ornaments, textures, and the like at its expense, respectively.

**Sec. 102-2212. 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.

Sec. 122-223 - After-the-fact certificate of appropriateness for demolition.

(a) After-the- fact demolition. In the event any demolition should take place prior to the historic architectural review commission review, a demolition application shall be submitted by the property owner as an "after-the-fact" application for a certificate of appropriateness for demolition to the historic architectural review commission, within 15 calendar days from the date the demolition occurred. The commission shall review the after-the fact demolition at the next available public meeting and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the commission reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic architectural

review commission within 15 days from the date the demolition occurred, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article shall be enforced, and violations may be punished as provided under Florida Statutes, Chapters 90 and 102 of this Code; including but not limited to any applicable criminal sanctions.

(b) Replication of full or partially demolished contributing, contributing altered or any building or structure declared historic by the city commission. The historic preservation review commission shall determine whether the replication of a contributing, contributing altered or any building or structure declared historic by the city commission is warranted. For purposes of this subsection, replication shall be defined as the total or partial physical reconstruction, including all original dimensions of a structure, inclusive of the reproduction of primary facade dimensions and public areas dimensions with appropriate historic materials, original walls, window and door openings, exterior features and finishes, roof forms and any other architectural character defining feature the building or structure used to have before its illegal demolition. The

historic architectural review commission shall have full discretion as to the exact level of any further demolition and reconstruction required. The new structure must incorporate the same height, massing, building form and square footage of the structure or part of it that was demolished without a certificate of appropriateness. No additional square footage will be permitted on a replicated building or structure, unless specifically authorized by the historic architectural review commission after a public meeting. Any flood elevation required for the new structure shall be incorporated in the design. Any non-conforming contributing, contributing altered or any building or structure declared historic by the city commission that was demolished before obtaining a certificate of appropriateness, and deemed warranted to be replicated, shall obtain all required variances from the planning board before it is finally presented to the historic architectural review commission for their review regardless the non-conformity is exempt of variances by the Planning Board.

(c) New design for replacement of an after-the fact demolition. If the historic architectural review commission finds that a replication of full or partially demolished contributing, contributing altered or any building or structure declared historic by the city commission is not an appropriate design

solution, the applicant must conform with all regulations prescribed under the historic architectural guidelines and Chapter 102 of this code. New designs cannot exceed the square footage of the illegally demolished building. New designs for a replacement of an -after-the-fact demolition shall obtain all required variances from the planning board before it is finally presented to the historic architectural review commission for their review.

(d) New design for replacement of an after-the-fact demolition of a non-contributing or non-historic building or structure or part of it. Any new design must conform with all regulations prescribed under the historic architectural guidelines and Chapter 102 of this code. New designs to replace an -after-the-fact demolition shall obtain all required variances from the planning board before it is finally presented to the historic architectural review commission for their review.