

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTIONS 90-133, 90-136, AND 90-138 TO AMEND NOTICE REQUIREMENTS; BY ADDING SECTION 90-143 TO PROVIDE FOR AN EXPANDED AND CONSISTENT PUBLIC NOTICING PROCESS FOR THE HISTORIC ARCHITECTURAL REVIEW COMMISSION; BY AMENDING CHAPTER 102 OF THE CODE OF ORDINANCES ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTIONS 102-217 AND 102-251 TO AMEND NOTICE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, at its meeting of June 29, 2011, the Planning Board reviewed and recommended to the City Commission approval of this amendment to the Code of Ordinances; and

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, Section 90-126 of the Code of Ordinances empowers the historic architectural review commission to preserve the character and appearance of the historic preservation districts of the city as well as the buildings, structures and properties listed in the local register of historic places and the National Register of Historic Places, and buildings, structures, archaeological sites, or districts classified as "contributing"

or "contributing but altered" on the city historic preservation study; and

WHEREAS, the historic architectural review commission guidelines, as adopted per Section 90-142, allow the city preservation planner to bring complex projects which substantially alter the exterior appearance of structures or their site and surroundings to the Historic Architectural Review Commission for review at a public meeting; and

WHEREAS, actions taken by the historic architectural review commission can be of significant import to surrounding property owners and the public at large; and

WHEREAS, Objective 1A-3.2: Public Participation of the adopted Comprehensive Plan states that the city will "provide opportunities for public participation in historic preservation initiatives and activities through public meetings, community workshops, and special events related to historic preservation..."; and

WHEREAS, Policy 1A-3.2.1: Advertising Meetings and Scheduling Workshops of the adopted Comprehensive Plan states that "Public participation in the historic preservation planning process shall be encouraged through the advertisement of public meetings and the scheduling of community workshops." And

WHEREAS, the City's certification under the National Historic Preservation Act of 1966, as amended through 2006, requires that the city provide for adequate public participation in the local historic preservation program; and

WHEREAS, existing public notice requirements for historic architectural review commission public meetings are limited in most cases to a newspaper advertisement only; and

WHEREAS, the Planning Board held a noticed public hearing on June 29, 2011 where, based on the consideration of recommendations by the city planner, city attorney, building official and other information, recommended approval of the proposed amendments; and

WHEREAS, the City Commission held a noticed public hearing on July 19, 2011 and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances; and

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 ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 90-133 of the Code of Ordinances is hereby amended as follows*:

Sec. 90-133. Regular meetings.

The historic architectural review commission shall attempt to convene on a regularly scheduled basis at least once each month. Notice of all meetings will be provided pursuant to Section 90-143. ~~, including the agenda with the address and description of each project, shall be published in a newspaper of general circulation in the city at least five days in advance thereof.~~ At any special or regular meeting the historic architectural review commission may set a future meeting date; however, that meeting must be noticed pursuant to Section 90-143.

Section 2: That Section 90-136 of the Code of Ordinances is hereby amended as follows:

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

Sec. 90-136. Preparation of agenda and minutes.

Minutes shall be kept of all meetings of the historic architectural review commission or committees thereof. All meetings shall be open to the public and, except for emergencies so designated by a majority of the full membership, notice of all meetings shall be published as for a regular meeting, pursuant to Section 90-143 ~~and an agenda for each meeting shall be available to the public at city hall five days in advance thereof.~~

Section 3: That section 90-138 of the Code of Ordinances is hereby amended as follows:

Sec. 90-138. Notice and ability to be heard.

Notice of the date upon which the vote of the historic architectural review commission will be taken shall be provided to the applicant, as shall written notice of the total vote. Applicants shall be given reasonable opportunity to be heard prior to the vote. The historic architectural review commission shall not accept or take action on any application for a certificate of appropriateness for work requiring planning board approval of a major development plan pursuant to sections 108-165 and 108-166, unless the historic architectural review commission first finds that the applicant has ~~, for the two weeks preceding the historic architectural review commission~~

~~meeting, posted on the work site a public notice showing the date and time of the historic architectural review commission meeting at which the application is considered. The size and style of the public notice shall be such that it is readily readable from an adjacent public street, and it shall include the words "public notice" in block lettering three inches or more in height.~~ met the terms of all the requirements of Section 90-143.

Section 4. That section 90-143 is hereby added to the code of ordinances as follows:

Section 90-143. Notice

(a) Scope. The city shall provide notice for all projects that will be reviewed by the historic architectural review commission during their regular meetings in accordance with this section, except as otherwise required or provided by state statute.

(b) Newspaper notice. The city shall publish five days in advance the agenda for all meetings in a newspaper of general paid circulation in the city and of general interest and readership in the city, not one of limited subject matter.

(c) Posted notice.

(1) For all projects that are scheduled for review during a public meeting, with the exception of Major Development

Plans and Building Relocations, the city shall provide a completed public notice form to the applicant or the applicant's representative. The notice shall be posted on the subject property, at least five (5) days prior to the relevant scheduled meeting. The notice shall be posted in a location that is visible from the adjacent public street. The notice shall contain block lettering on a high contrast background color with the words "public notice" in letters three inches or more in height. The applicant or the applicant's representative shall provide a sworn affidavit together with photographic evidence to the historic preservation planner that posting of the notice has been accomplished consistent with this section. Submission shall be made at least 3 days prior to the relevant scheduled meeting of the historic architectural review commission.

(2) For Major Development Plans and Building Relocation projects the city shall provide a completed public notice form to the applicant or the applicant's representative. The notice shall be posted on the subject property at least 14 days prior to the relevant scheduled meeting. The notice shall be posted in a location that is visible from the adjacent public street. The notice shall contain block lettering on a high contrast background color with the words "public notice" in letters three inches or more in height. The applicant or the applicant's representative shall provide a sworn affidavit together with

photographic evidence to the historic preservation planner that posting of the notice has been accomplished consistent with this section. Submission shall be made at least 10 days prior to the relevant scheduled meeting of the historic architectural review commission.

(d) Content of posted notice. The posted notice required by this section shall contain the date, time and place of the public meeting and a common description of the location of the subject site and the nature of the project.

Section 5. That section 102-217 of the Code of Ordinances is hereby amended as follows:

Sec. 102-217. Required public meetings.

The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a building or structure located in a designated historic zoning 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. ~~also be posted on site in a conspicuous location at least five days in advance of the~~

~~meeting. The notice shall be posted by the property owner or the property owner's agent. The notice shall be legible from an adjacent public street. The notice shall contain block lettering on a high contrast background color with the words "public notice" in letters three inches or more in height.~~

Section 6: That section 102-251 of the code of ordinances is hereby amended as follows:

Sec. 102-251. Application and fee.

Application for a certificate of appropriateness for relocating a historic building or structure in the historic district shall be submitted to the historic architectural review commission, together with an application fee as determined by resolution by the city commission. Applications for relocating a historic building or structure shall be reviewed by the historic architectural review commission during a regular meeting. Notice of the meeting shall be published as for a regular meeting, pursuant to Section 90-143.

Section 7: 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 8: 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 9: 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 and approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2011.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2011.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2011.

Filed with the Clerk _____, 2011.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK