

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report



To: Chairman Holland and Planning Board Members

Through: Katie P. Halloran  
Planning Director

From: Kathleen McDonald, MHP  
Historic Preservation Planner II

Meeting Date: November 19, 2020

Agenda Item: **Text Amendments to the Historic Architectural Review Commission Design Guidelines and Amendments to Section 86-9, Definition of Terms, of the Land Development Regulations** - A Resolution of the City of Key West Planning Board recommending approval of an Ordinance of the City Commission of the City of Key West, Florida, amending Chapter 86, Section 86-9, entitled "Definition of Terms," of the City of Key West Land Development Regulations; Amending the Historic Architectural Review Commission Design Guidelines Chapter VI, Article u, entitled "Decks, Patios, Hot Tubs and Pools" and Chapter IX, entitled "Architectural Glossary," as referenced in Chapter 90, Section 90-142 of the City of Key West Land Development Regulations; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Request: Approval of Proposed changes to Chapter 86, Section 86-9, "Definition of Terms," of the Land Development Regulations, as well as proposed changes to Chapter VI, Article u, "Decks, Patios, Hot Tubs and Pools" and Chapter IX, "Architectural Glossary," of the Historic Architectural Guidelines.

Applicant: City of Key West

**Background:**

At both the November 2019 and January 2020 Historic Architectural Review Commission meetings, the current Historic Architectural Design Guidelines for Decks, Patios, Hot Tubs and Pools were a topic of concern due to their somewhat confusing and conflicting nature. It was requested by the Commission members that HARC staff revisit the guidelines and propose amendments that would be more straightforward and in keeping with the character of the historic district.

First, the preamble was amended to make it clear that pools, hot tubs, spas and related equipment will not be permitted in the front or side yard of a property adjacent to the public right-of-way, as they would detract from the sense of time and place that sets our district apart from modern developments. There is also now a separate paragraph in the preamble dedicated to clarifying the importance of front and street-side yards in the historic district, and how excessive paving is not appropriate in these areas.



External areas in front or to the side of properties visible from the public-right-of way are an important contributor to the historic district. The introduction of excessive areas of paving material that exceed over forty percent of a front or street-side yard is not permitted in the historic district.

1. Wood decking or brick patios are allowed on non-street-side or rear yards. Wood decks shall must not be built on the front or street-side yard of any house building adjacent to the public right-of-way.
2. ~~Wooden decks in side yards not adjacent to public right-of way shall be set back a minimum of ten feet from the front wall of a structure and are not allowed in front of the front façade of a property. If deemed appropriate to be located in a side yard, wooden decks shall be screened with fencing or landscaping. This guideline shall not pertain to landings required by the Florida Building Code.~~
3. ~~Best efforts shall be made to ensure that decks, pools, hot tubs and patios are not visible Pools and related equipment proposed in HARC-approved locations must be screened from the elevation sight from the right-of-way by use of landscape or HARC-approved fence screening.~~
4. ~~The proportion of decking, patio or pool dimensions shall not exceed fifty percent of the total lot minus the building footprint.~~
5. ~~No swimming pool shall be built in a front yard of any structure in the historic district.~~
6. ~~Swimming pools may be built in a side or rear yard adjacent to a public right-of way only if the pool is located directly behind the principle structure or it is set to the rear half of the side yard. A property owner shall not seek a change of address to circumvent this rule.~~
4. The above guidelines pertain to both in-ground and above-ground hot tubs, spas, and pools, as well as any related equipment.
5. The above guidelines shall not pertain to ponds.

## HISTORIC ARCHITECTURAL REVIEW COMMISSION DESIGN GUIDELINES

### Chapter IX - Architectural Glossary

#### Architectural Glossary

**Courtyard:** An open, unobstructed, unoccupied space, other than a yard, on the same premises on which the building is located. An unoccupied open space on the same lot with the principal building and fully enclosed on at least three adjacent sides by walls of the principal building, or at least three or more exterior structural walls.

**Deck:** A raised outdoor platform with or without a roof.

**Landing:** A platform that sits at the base of a set of stairs/steps, a ramp, an entrance/exit, or a door. Minimum dimensions are 36" by 36" for dwelling units, and maximum dimensions are 60" by 60" for ADA accessible units.

**Patio:** A paved, uncovered area directly on the ground, which can either be attached to or detached from a building.

**Paving:** A hard ground covering that is laid using materials including, but not limited to: asphalt, bricks, concrete, gravel, stones, tiles, wood, and synthetics.

**Pond:** A small body of still water not deeper than 18 inches, which is used as a landscape feature and not for human occupation.

## CITY OF KEY WEST LAND DEVELOPMENT REGULATIONS

### Chapter 86 - General Provisions

#### Section 86-9 - Definition of Terms

*Courtyard* means an open, unobstructed, unoccupied space, other than a yard, on the same lot with the principal building and fully enclosed on at least three adjacent sides by walls of the principal building, or at least three or more exterior structural walls.

*Patio* means ~~an open unoccupied space on the same lot fully enclosed on all four sides by the principal building~~ a paved, uncovered area directly on the ground, which can either be attached to or detached from a building.

#### Analysis:

The amendments under review were proposed by the Historic Architectural Review Commission in November of 2019 and January of 2020. The amendments were recommended by HARC for approval on their August 25, 2020 regular virtual meeting. Section 90-520 of the Code outlines required information for a petition to amend the Land Development Regulations. A review of the proposed ordinance relative to Section 90-520 is provided below:

- (1) **Property Description** - Historic District, specifically zones HMDR, HSMDR, HHDR, HRCC1, HRCC2, HRCC3, HRCC4, HNC1, HNC2, HNC3, HCT, HRO, HPS, HPS1, HPS2, HPRD and HCL.
- (2) **Current and proposed comprehensive plan land use map designation** - No changes proposed in land use map designation.
- (3) **Current and proposed zoning** - No changes proposed in zoning designation.
- (4) **Existing and proposed use** - Not applicable.
- (5) **Disclosure of ownership** - Not applicable.

- (6) **Justification** - The amendments to the Historic Architectural Guidelines and the Land Development Regulations have been proposed and recommended for approval by the Historic Architectural Review Commission. The Historic Preservation Element under Future Land Use in the City of Key West Comprehensive Plan states, under several objectives and policies, the importance of protective regulations in the Land Development Regulations that guarantee the preservation of the visual quality and character of the historic district.

Goal 1A-A of the City's Comprehensive Plan states: *"To identify and protect resources of archaeological and architectural significance."* Objective 1A-1.2, entitled "Designated Historic Districts and Landmarks," establishes the City's responsibility to *"...ensure the stability, maintenance and improvement of designated historic districts and independently listed landmarks..."* through *"...updating HARC Guidelines."* Furthermore, under Policy 1A-1.2.1, entitled "HARC Guidelines," it is stated that the City and HARC shall *"...continue to protect all historically significant structures and historic districts by periodically updating the HARC Guidelines."* It is staff's opinion that the proposed updates are necessary to ensure that the Historic Architectural Review Commission is equipped to review projects using HARC Guidelines that are up-to-date, straightforward, and in keeping with the character of the historic district.

The proposed amendments to the HARC Guidelines and LDRs are consistent with the City's Comprehensive Plan and the LDRs. The Historic Architectural Review Commission is chartered to preserve the character and appearance of the Key West Historic District through review and regulation of proposed changes in the district. The proposed amendments will assist HARC in their responsibilities.

Section 90-522 establishes the Planning Board Review process for proposed changes of the 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 and the Planning Director have worked with HARC staff in the review of the proposed text amendments to ensure that the changes are consistent with the LDRs and necessary to clarify language and intent of the HARC Guidelines for "Decks, Patios, Hot Tubs and Pools," as well as associated definitions in the LDRs. The proposed text amendment does not alter the official zoning map Section 90-521 of the LDRs, entitled *"Criteria for approving amendments to official zoning map,"* and therefore it is not applicable under this review.

**Process:**

Section 90-523 of the Land Development Regulations states that the City Commission shall review and act upon all proposed amendments to the LDRs and the official zoning map. If the Planning Board approves the text amendment the City Commission shall schedule a public hearing on the petition. The City Commission review process requires two readings of the proposed amendments. Absent of any appeals, the ordinance will be rendered to the Florida Department of Economic Opportunity, who will have 60 days to issue an order of consistency. The final ordinance will be sent to the Florida Department of State, Division of Historical Resources, as required by the city's Certified Local Government Agreement of 1991.

**RECOMMENDATION:**

The Historic Architectural Review Commission and Planning Department staff recommend consideration and approval of the submitted text amendments, based on requirements and objectives set forth in the Land Development Regulations and the City of Key West Comprehensive Plan.