



City of Miami
Legislation
Ordinance 13712

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File Number: 2939

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AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 23 OF THE CITY CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "HISTORIC PRESERVATION," TO PROVIDE DEFINITIONS AND ESTABLISH PROVISIONS FOR MULTIPLE PROPERTY DESIGNATIONS; PROVIDING FORM APPLICABILITY IN THE NCD-2 AND NCD-3 DISTRICTS AS PROVIDED HEREIN; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Miami Historic and Environmental Preservation Board at its meeting on October 3, 2017, following an advertised public hearing, adopted Resolution No. HEPB-R-17-050 by a vote of nine to zero (9-0), Item no. 7, recommending approval of an amendment to Chapter 23 of the Code of the City of Miami, Florida, as amended ("City Code"), entitled "Historic Preservation"; and

WHEREAS, the preservation of the City of Miami's ("City") historic resources is a significant goal in the City's overall vision for its future; and

WHEREAS, multiple property designations establish provisions whereby a group of thematically-related significant properties may be nominated for historic designation at one time; and

WHEREAS, multiple property designations are a streamlined alternative to historic district designations as only eligible thematically-related resources are surveyed; and

WHEREAS, the City Commission, after careful consideration of this matter, deems it advisable and in the best interests of the general welfare of the City and its citizens to amend the City Code as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 23 of the City Code, entitled "Historic Preservation", is hereby amended in the following particulars:¹

"CHAPTER 23

HISTORIC PRESERVATION

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

ARTICLE I. - HISTORIC PRESERVATION

Sec. 23-1. - Intent and purpose.

- (a) The intent of this chapter is to preserve and protect the heritage of the city through the identification, evaluation, rehabilitation, adaptive use, restoration, and public awareness of Miami's historic, architectural, and archaeological resources. This chapter is further intended to:
- (1) Effect and accomplish the protection, enhancement, perpetuation, and use of structures, landscape features, archaeological and pale ontological resources, areas, neighborhoods, and scenic vistas which represent distinctive elements of the city's historic, cultural, archaeological, pale ontological, aesthetic, and architectural heritage.
 - (2) Foster civic pride in the accomplishments of the past.
 - (3) Protect and enhance the aesthetic and environmental character, diversity, and interest of neighborhoods.
 - (4) Stabilize and improve property values in neighborhoods and in the city as a whole.
 - (5) Protect and enhance the city's attraction to residents, tourists, and visitors and thereby serve as a support and stimulus to the economy.
 - (6) Promote the use of historic resources, historic districts, multiple property designations, and archaeological sites and zones for the education, pleasure, and welfare of the people of the city.
- (b) The purpose of this chapter is to:
- (1) Provide the framework and legal mechanism for identifying and designating those properties that have major significance in the city's historic, cultural, archaeological, paleontological, aesthetic, and architectural heritage.
 - (2) Provide a mechanism whereby the HEPB may, in the interest of historic preservation, waive certain zoning requirements for those existing structures deemed individually significant, or "contributing" within a designated historic district, or a Thematically-Related Historic Resource within a Multiple Property Designation.
 - (3) Provide a mechanism whereby the historic and environmental preservation board may, in the interests of historic preservation, allow signage which has been deemed "historic" to remain, and be repaired, restored, relocated, structurally altered, or reconstructed.
 - (4) Through the historic preservation exception or exclusion, provide mechanisms for the granting of certain uses when the granting of such use is necessary to encourage or assure the continued preservation of the individually designated historic resource, or "contributing" building within a historic district, or a Thematically-Related Historic Resource within a Multiple Property Designation.
 - (5) Provide an incentive for historic resources, and those deemed "eligible" by the city HEPB for historic designation, known as "Transfer of Development Rights for Historic Resources."
 - (6) Establish minimum standards to qualify eligible resources, that while not yet officially locally designated under the provisions of this chapter, qualify as eligible for listing and thereby may apply for transfer of development rights, provided that the resource is formally listed in the city register of historic places within one year from the date of the historic and environmental preservation board's review of the application.

- (7) Establish procedures for the review of nominations to the national register of historic places as governed by the requirements of the state division of historical resources.
- (8) Assure that alterations and new construction within designated historic sites, historic districts, Multiple Property Designations, and archaeological zones are compatible with the property's historic character.
- (c) Pursuant to subsection 16A-3(2)(c) of the Code of Miami-Dade County, Florida, the city expressly reserves and retains jurisdiction over archaeological zones and sites within the city.

Sec. 23-2. - Definitions.

The following definitions shall apply only to this chapter; undefined terms shall be defined as set forth in the National Historic Preservation Act of 1966, as amended, or as commonly used:

* * * *

Demolition. The complete destruction of a structure, or any part thereof.

Demolition by neglect. The deliberate or inadvertent failure to maintain minimum maintenance standards for those properties designated historic either individually or as a contributing property within a historic district or as a Thematically-Related Historic Resource within a Multiple Property Designation by action of the historic and environmental preservation board.

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Historic and environmental preservation atlas. The official historic and environmental preservation atlas of the city, as amended, which shows all designated historic sites, historic districts, Multiple Property Designations, and archaeological zones.

* * * *

Historic resource. An overarching term used to describe the various categories of properties which have demonstrated significance in the history of the city, the county, the state and/or the nation. These properties include landscape features, archaeological sites and zones, structures, buildings, districts, Multiple Property Designations, and objects.

* * * *

Interim protection measure. The interim period of time needed to protect a property building, structure, object and/or landscape feature from demolition, relocation, alteration, or new construction until such period of time provided by law passes for the property to be considered for designation as a historic site, historic district, Multiple Property Designation, or archaeological zone.

Landscape feature. Vegetation, geological features, ground elevation, bodies of water or other natural or environmental features.

Locally designated historic resource. Any archaeological site or zone; individual building; structure, object, landscape feature, ~~or~~ historic district, or Multiple Property Designation that has

been approved for designation by the city's HEPB, as prescribed by the provisions of this chapter, and shown in the historic and environmental preservation atlas.

* * * *

Multiple Property Designation. A collection of two (2) or more Historic Resources related by a common theme, general geographical area, and period of time that has been designated by the HEPB pursuant to the provisions of this Chapter. A group of Historic Resources shall qualify for designation as a Multiple Property Designation when each Historic Resource meets the designation criteria set forth in Section 23-4. Each property in a Multiple Property Designation shall be evaluated and reviewed individually even though it is included in the Multiple Property Designation. Multiple Property Designation(s) including Thematically-Related Multiple Property Designation(s) may only be made or considered in the following Neighborhood Conservation Districts ("NCD") as set forth in Appendix A to the Miami 21 Code: (i) NCD-2: Village West Island District and Charles Avenue; (ii) NCD-3: Coconut Grove Neighborhood Conservation District.

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Thematically-Related. A group of Historic Resources related by a common theme.

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Sec. 23-4. - Designation of historic resources, historic districts, Multiple Property Designations, and archaeological sites and zones.

(a) *Criteria for designation.* Properties may be designated as historic resources, historic districts, Multiple Property Designations, or archaeological sites and zones only if they have significance in the historical, cultural, archaeological, paleontological, aesthetic, or architectural heritage of the city, state, or nation; possess integrity of design, setting, materials, workmanship, feeling, and association; and meet one or more of the following criteria:

- (1) Are associated in a significant way with the life of a person important in the past;
- (2) Are the site of a historic event with significant effect upon the community, city, state, or nation;
- (3) Exemplify the historical, cultural, political, economic, or social trends of the community;
- (4) Portray the environment in an era of history characterized by one or more distinctive architectural styles;
- (5) Embody those distinguishing characteristics of an architectural style, or period, or method of construction;
- (6) Are an outstanding work of a prominent designer or builder;
- (7) Contain elements of design, detail, materials, or craftsmanship of outstanding quality or which represent a significant innovation or adaptation to the South Florida environment; or
- (8) Have yielded, or may be likely to yield, information important in prehistory or history.

- (b) *Criteria exceptions.* Ordinarily cemeteries, birth places, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance within the past 50 years shall not be considered eligible for listing in the Miami register of historic places. However, such properties will qualify for designation if they are integral parts of districts or Multiple Property Designations that do meet the criteria, or if they fall within the following categories:
- (1) A building or structure that has been removed from its original location but is significant primarily for architectural value, or is the surviving structure most importantly associated with a historic person or event;
 - (2) A birthplace or grave of a local historical figure of outstanding importance if no appropriate site or building exists directly associated with his or her productive life;
 - (3) A cemetery that derives its primary significance from graves of persons of outstanding importance, from age, from distinctive design features, or from association with historic events;
 - (4) A reconstructed building when accurately executed in a suitable environment and presented appropriately as part of a restoration masterplan and no other building or structure with the same association has survived;
 - (5) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance;
 - (6) A property achieving significance within the past 50 years if it is exceptionally important; or
 - (7) A religious property deriving primary significance from architectural or artistic distinction or historical importance.
- (c) *Procedures for designation.* Properties which meet the criteria set forth in section 23-4 may be designated as historic resources, historic districts, Multiple Property Designations, and archaeological sites and zones according to the following procedures:
- (1) *Proposals and preliminary evaluation.* Proposals for designation may be made to the board by any one of its members, the mayor, the city manager, resolution of the planning, zoning and appeals board, resolution of the city commission, the property owner, resolution of the county historic preservation board, resolution of any organization that has been a registered non-profit corporation in the state for at least five years with a recognized interest in historic preservation, or the preservation officer. In those instances when a historic district or Multiple Property Designation is being considered, the preservation office shall conduct outreach involving all relevant home owner associations and neighborhood associations, ultimately ascertaining their level of support by way of resolution or vote. Said level of support shall be taken into consideration by staff and members of the HEPB when evaluating any proposed historic district or Multiple Property designation. The board shall conduct a preliminary evaluation of the data provided in the proposal for conformance with criteria set forth in subsection (a); and shall, if appropriate, direct the planning department to prepare a designation report. The board may require the party initiating such proposal to provide any necessary documentation, and to pay any applicable fees.
 - a. *Notification.* At least ten days prior to the meeting at which the board will consider the preliminary evaluation, the owner of property or his designated agent or attorney, on file with the city, which is the subject of said proposal for designation

shall be notified by certified mail of the board's intent to consider the preliminary evaluation of the property. Should the applicant be a person other than the property owner or designated agent or attorney on file with the city, the applicant shall be notified and the owner of record of the subject property shall be notified. For historic districts or Multiple Property Designations where there are more than fifty properties to be considered, for designation, the owners shall be notified by first class mail and by the published notice.

- b. *Interim protection measures.* From the date said notice of the preliminary evaluation is mailed, no building permit for any new construction, alteration, relocation, or demolition that may affect the property proposed for designation shall be issued until one of the following occurs:
 1. The board finds that the property does not appear to meet the criteria for designation and votes not to direct the planning department to prepare a designation report in accordance with subsection (b)(1);

The board approves or denies the designation in accordance with subsection (b)(3), or 120 days have elapsed, whichever shall occur first, unless this time limit is waived on the record by mutual consent of the owner and the board; or
 3. The owner applies for an accelerated certificate of appropriateness prior to final action on the designation by the board, and such certificate of appropriateness has been issued in accordance with the provisions of section 23-6.2. The preservation office shall place said application for a certificate of appropriateness on the next available agenda of the board. Any owner who carries out or causes to be carried out any work without the required certificate of appropriateness shall be subject to the provisions of subsection 23-6.2(f).

(2) *Preparation of designation report.* For every proposed historic site resource, historic district, Multiple Property Designation, and archaeological zone, the planning department shall prepare a designation report containing the following information:

- a. *Designation report.* The designation report shall contain a statement of the historic, architectural, and/or archaeological significance of the proposed historic resource, historic district, Multiple Property Designation, or archaeological site or zone; the criteria upon which the designation is based; a physical description of the property; an identification of contributing structures ~~and/or~~ landscape features, and/or Thematically-Related Historic Resources; present trends and conditions; and incentives to encourage preservation, rehabilitation, or adaptive use.
- b. *Boundaries.* The designation report shall include a map or maps indicating proposed boundaries. Boundaries for historic resources shall generally include the entire property or tract of land, unless such tract is so large that portions thereof are visually and functionally unrelated to any contributing structure or landscape feature. Historic district boundaries shall in general be drawn to include all contributing structures reasonably contiguous within an area and may include properties which individually do not contribute to the historic character of the district, but which require regulation in order to control potentially adverse influences on the character and integrity of the district. Multiple Property Designation boundaries shall, in general, be drawn to include all Historic Resources related by a common theme and may include properties which individually have no relation to the theme. Properties within the boundary that have no relation to the theme will not require regulation under this Chapter of the City Code unless they are individually designated Historic Resources or included within

a historic district or archaeological zone. Archaeological zone boundaries shall generally conform to natural physiographic features which were the focal points for prehistoric and historic activities or may be drawn along property lines, streets, or geographic features to facilitate efficient management.

- c. *Interiors.* Interior spaces that have exceptional architectural, artistic, or historic importance and that are regularly open to the public may be subject to regulation under this chapter. The designation report shall describe precisely those features subject to review and shall set forth standards and guidelines for such regulations. Interior spaces not so described shall not be subject to review under this chapter.
- (3) *Notice and public hearing.* The board shall conduct a public hearing to determine whether the proposed historic resource, historic district, Multiple Property Designation, archaeological site or zone meets the criteria set forth in subsection (a) and shall approve, amend, or deny the proposed designation. The board may rehear proposals based upon policies set forth in its rules of procedure. All public hearings on designations conducted by the board, except as provided in subsection (b)(1) a., and hearings on appeals of board decisions to the city commission regarding designations shall be noticed as follows:
- a. The owner of property or his designated agent or attorney, if any, which is the subject of such designation shall be notified by mail at least 15 days prior to the board's meeting and ten days prior to subsequent administrative appellate hearings. The owner shall receive a copy of the designation report unless there are more than 20 owners, in which case the notice shall state that a copy is available and where it may be obtained.
 - b. An advertisement shall be placed in a newspaper of general circulation at least ten days prior to the hearing.
 - c. Signs shall be posted pursuant to subsection 62-129(2) a., as amended.
 - d. Notice of the time and place of the public hearing by the board, or city commission, as the case may be, shall be sent at least ten days in advance of the hearing by mail to all owners of property within 500 feet of the property lines of the land for which the hearing is required. The applicant shall be charged the appropriate fee established for this purpose.
 - e. For the purpose of this chapter, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of Miami-Dade County. The preservation officer, or his/her designee, shall certify at the time of the public hearing that notice as herein required was given to the persons as named and with addresses shown on his certification by the placing in the mail system of the United States on the date certified the herein required notice, the certification shall be conclusive of the giving of such notice; in the case of condominiums, notice will be sent solely to the condominium association. No action taken by the board, or the city commission, as the case may be, shall be voided by the failure of an individual property owner or property owners to receive notice pursuant to this chapter.
- (4) *Historic and environmental preservation atlas.* Historic sites, historic districts, Multiple Property Designations, and archaeological zones designated pursuant to section 23-4 shall be shown in the "Official Historic and Environmental Preservation Atlas of the City of Miami, Florida," as amended.

- (5) *Electronic building records.* Following the designation of a resource, the historic preservation officer shall note the property as a historic resource in the city's building department records.
- (6) *Notifications.* Following the designation of a resource, the historic preservation officer shall notify the following parties with a copy of the resolution:
 - a. The owner(s) of record.
 - b. The Miami-Dade County Clerk of the Courts.
- (7) *Appeals.* The property owner, any one member of the city commission, the planning department, or any aggrieved party may appeal to the city commission any decision of the board on matters relating to designations by filing within 15 calendar days after the date of the decision a written notice of appeal with the hearing boards department, with a copy to the preservation officer. Such notice of appeal shall set forth concisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by a fee of \$525.00, plus \$3.50 per mailed notice required pursuant to subsection (b)(3). The city commission shall hear and consider all facts material to the appeal and render a decision as promptly as possible. The city commission may affirm, modify, or reverse the board's decision. Any decision to reverse the board's decision shall require a three-fifths vote of all members of the city commission. Appeals from decisions of the city commission may be made to the courts as provided by the Florida Rules of Appellate Procedure. The provisions of subsection (b) shall remain in effect during the entire appeal process, unless stayed by a court of competent jurisdiction. The appeal shall be a de novo hearing and the city commission may consider new evidence or materials in accordance with section 2004 of the zoning ordinance. Appeals shall be made directly to the city commission, within 15 calendar days after the date of the decision, and follow the procedures described in subsections 23-6.2(e) or 23-4(7).
- (8) *Amendments.* The board may amend any designation by following the same procedures as set forth in this section. The board may likewise rescind any designation if the structure or feature of principal historic significance has been demolished or destroyed.
- (d) *Effect of designation.* Upon designation, and thereafter, the provisions of section 23-6.2 shall apply.

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Sec. 23-6. - Transfer of development rights for historic resources; provision for a determination of eligibility process, and special provisions for resources within the Miami Modern (MiMo)/Biscayne Boulevard Historic District; prohibiting certain uses; and establishing a 35-foot height limit.

It is the intent of this section to encourage the preservation of historic resources by creating a process whereby the otherwise unusable development rights for historic resources may be converted into an asset that may be sold to a receiving site located within a T-6 transect, where a public benefits bonus may be used. Owners of eligible properties shall be issued a "certificate of eligibility" following confirmation that the property meets the criteria established in subsection (1) or has been determined eligible under the process described in subsection (3).

- (1) *Eligible properties (sending sites).*

- a. Under the TDR provisions described in this section, a property owner is automatically eligible to apply to sell their unused development rights if the property is located in a T4-O transect or higher, and is classified as one or more of the following:
 1. Individually listed in the national register of historic places;
Listed as a contributing property within a national register district;
 3. Individually listed in the Miami register of historic places under the provisions of section 23-4;
 4. Listed as a contributing property within a local historic district under the provisions of section 23-4;
 5. Listed as a Thematically-Related Historic Resource within a Multiple Property Designation under the provisions of Section 23-4.
 - ~~56.~~ Qualified as an "eligible historic resource," after having met the criteria for eligibility set forth in subsection (3), and so determined by the HEPB.
 - ~~67.~~ Otherwise qualifies as a historic resource, but that has lost its historic integrity because of major alterations and/or additions; provided that it can be shown to the HEPB that:
 - A. The building's original appearance can be documented;
 - B. The owner applies for and receives a special certificate of appropriateness, detailing the steps to be taken to restore the original appearance of the building;
 - C. The owner substantially completes the proposed restoration activity before an application for transfer of development rights is submitted.
 - ~~78.~~ A multi-family residential structure in a T4-R Transect, shall be eligible for the TDR program, only in the event it is:
 - A. Individually listed in the National Register of Historic Places; and/or
 - B. Individually listed in the Miami Register of Historic Places.
 - C. Qualified as an "eligible historic resource" by the HEPB after having met the criteria for eligibility set forth in subsection (3), for an individually significant resource.

For those individual buildings that are locally designated historic resources on the Miami register of historic places and deemed eligible by the preservation officer to participate in the transfer of development rights ("TDR") program under the terms of section 23-6, the zoning administrator or her designee shall calculate the unused development potential (base development rights) that may be transferred to a receiving property at 225 percent per square foot of the available square feet permitted by the underlying transect zone, thereby recognizing the significance of Miami's locally designated historic resources and the additional requirements associated with the rehabilitation of a historic property.

- ~~89.~~ A contributing or non-contributing resource contained within the boundaries of the Miami Modern (MiMo)/Biscayne Boulevard Historic District shall be eligible for the TDR incentive as further described in subsection (2).

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Sec. 23-6.1. - Waivers, exceptions and exclusions for locally designated historic resources.

In an effort to promote and encourage the preservation and adaptive reuse of locally designated resources, so designated pursuant to the provisions of section 23-4, the HEPB may grant a certain exception to a use permitted in specific zoning designations, or an exclusion to allow a cultural facility as an allowable use in medium and high density multifamily (general urban) zones, and/or may grant certain waivers to the zoning code provided that it will result in the preservation of a locally designated property.

Historic preservation waivers. The board may authorize certain waivers to the requirements of the underlying zoning district, to the extent indicated herein.

(1) Waivers concerning designated historic resources.

- a. Any building that is individually locally designated or is classified as a contributing building within a local historic district or is classified as a Thematically-Related Historic Resource within a Multiple Property Designation, as identified in the designation report, shall be permitted to be repaired, restored, structurally altered, or reconstructed, notwithstanding any conflicts with provisions of the underlying zoning district requirements. However, the board shall not have the authority to grant any waivers of density, intensity and building height requirements.
- b. In cases where the size or configuration of a locally designated property, ~~or a contributing property within a locally designated historic district~~ or a Thematically-Related Historic Resource within a Multiple Property Designation is such that compliance with off-street parking requirements would destroy the historic character of the property, the board may authorize a reduction of up to 100 percent of the number of parking spaces that would ordinarily be required for a new structure of equivalent use and floor area and/or a waiver of loading requirements.

Such waivers will be granted only when it can be demonstrated that:

1. Granting the waiver will further the preservation of the historic and architectural character of the historic resource, or of the historic district in which the proposal is located.
Granting the waiver would promote the preservation of the historic resource or historic district while reducing nonconformities.
3. Granting the waiver would help minimize or mitigate any potential adverse effect of a specific proposal whose implementation promotes the preservation of the historic resource or historic district.
4. Special circumstances exist such as adjacencies or shared parking that will practically alleviate concerns for off-street parking.
5. The HEPB shall make specific findings that establish how the criteria have been met. Additionally, the board may impose any conditions, restrictions, or limitations deemed appropriate in order to ensure compliance with the criteria set forth above.
6. The waiver shall be the minimum necessary to assure the continued preservation of the historic structure.

- (2) *Waivers concerning additions.* Waivers for additions to existing buildings may also be authorized by the board when necessary to assure the preservation of historic resources and historic districts, subject to the limitations described in section 23-6.1.
- (3) *Historic preservation exceptions.* Unless otherwise authorized by Article 4, Table 3, of the Miami 21 Code, the board may authorize certain exceptions to the requirements of the underlying zoning to the extent indicated herein. Bed and breakfast uses complying with applicable codes may be permissible as an exception in low, medium and high density multifamily residential (general urban, urban center and urban core) zones. Additional allowable uses which include professional offices, and museums will be classified as exceptions and may be allowed except in T3 Transect Zones. Additional allowable uses which include restaurants and private clubs, as they are respectively defined in section 4-2 of the City Code, will also be classified as exceptions and may be allowed except in T3 and T4 Transect Zones. Such uses shall be permissible only within existing structures that are individually designated or contributing resources within a designated historic district or Thematically-Related Historic Resources within a Multiple Property Designation as identified in the designation report prepared pursuant to chapter 23; and shall not be permissible in any case where the structure(s) of principal historic significance has (have) been destroyed or damaged beyond repair, unless such structure(s) is (are) reconstructed in accordance with a certificate of appropriateness approved by the board pursuant to the provisions of chapter 23. Any use authorized pursuant to this section shall comply with all regulations applicable to the same or similar use in the most restrictive zoning designation permitting such use; to the extent such regulations have not been modified pursuant to this section.
- a. *Exclusion.* In an effort to provide even greater flexibility in the adaptive use of locally designated historic resources, and to recognize the concomitant relationship of historic preservation and the cultural arts, the HEPB is authorized to grant an exclusion for a cultural facility as an allowable use in medium and high density multifamily (general urban) zones; such uses may include:
1. Rehearsal/studio space(s);
Gallery space(s);
 3. Performance workshop areas;
 4. Classrooms for arts education.
- (a) The HEPB shall review each application for an exclusion that would permit the conversion of a locally designated historic resource for use as a cultural facility through the process for a special certificate of appropriateness as defined in this chapter. The special certificate of appropriateness may include requests for both additions and/or new construction in order to meet the programming requirements of the cultural facility.
- (b) Adjacent land, owned or leased by the facility may be used to provide required parking.
- (c) The HEPB may concurrently review a waiver of certain zoning requirements in conjunction with a request for an exclusion, provided that the request is the minimum necessary to successfully accomplish the project; and that the impact to the surrounding areas is minimal.

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Sec. 23-6.2. - Certificates of appropriateness.

(a) *Certificates of appropriateness, when required.* A certificate of appropriateness shall be required for any new construction, alteration, relocation, or demolition within a designated historic site or historic district or for Thematically-Related Historic Resources within a Multiple Property Designation. A certificate of appropriateness shall also be required for exceptions, or waivers or exclusion from the provisions of the zoning code, or any successor zoning code. A certificate to dig shall be required for any ground disturbing activity within a designated archaeological site or archaeological zone or within an archaeological conservation area. All certificates of appropriateness and certificates to dig shall be subject to the applicable criteria in this Section and any other applicable criteria specified in this chapter, as amended. No permits shall be issued by the building department for any work requiring a certificate of appropriateness unless such work is in conformance with such certificate.

(b) *Procedures for issuing certificates of appropriateness.*

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(4) *Special certificates of appropriateness.* Where the action proposed in an application involves a major addition, alteration, relocation, or demolition, as specified by the rules of procedure of the board; where the preservation officer finds that the action proposed in an application involving a minor alteration is not clearly in accord with the guidelines as set forth in subsection (c); or when the applicant is requesting a waiver, or exception or exclusion from the requirements of the zoning code the application shall be classified as a special certificate of appropriateness, and the following procedures shall govern:

* * * *

b. *Decision of the board.* The decision of the board shall be based upon the guidelines set forth in subsection (c), as well as the general purpose and intent of this chapter and any specific design guidelines officially adopted for the particular historic resource, historic district, Multiple Property Designation, or archaeological site or zone. No decision of the board shall result in an unreasonable or undue economic hardship for the owner. The board may seek technical advice from outside its members on any application. The decision of the board shall include a complete description of its findings, and shall direct one of the following actions:

1. Issuance of a special certificate of appropriateness for the work proposed by the applicant;
Issuance of a special certificate of appropriateness with specified modifications and conditions;
3. Denial of a special certificate of appropriateness, including denial of a special certificate of appropriateness for demolition; or
4. Issuance of a special certificate of appropriateness with a deferred effective date of up to six (6) months in cases of demolition or relocation of a contributing structure or landscape feature, pursuant to the provision of special certificates of appropriateness for demolition in this section or up to forty-five (45) calendar days for any work potentially affecting an archaeological site, archaeological zone, or archaeological conservation area,

pursuant to the provisions of special certificates of appropriateness for demolition in this section.

5. Issuance of a written communication prepared by the preservation officer to the director of the planning department and the zoning administrator that sets out the exact parameters for the waiver (s) from the provisions of the Miami 21 code and the reasons wherefore, and/or their decision as to the exception allowed within a certain transect, and their reasons wherefore.
6. Accelerated certificate of appropriateness. There are occasions when an applicant is proposing physical changes to a resource that is simultaneously being considered for local historic designation. Under those circumstances, and only if the proposed changes are of a substantial nature, the historic preservation officer shall follow the procedures specified for a special certificate of appropriateness. A hearing for an accelerated certificate of appropriateness will be preceded by the preliminary designation report, in order to establish whether or not the resource appears to meet the criteria for local historic designation.

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(h) *Guidelines for issuing certificates of appropriateness.*

- (1) *Alteration of existing structures, new construction.* Generally, for applications relating to alterations or new construction as required in subsection (a) the proposed work shall not adversely affect the historic, architectural, or aesthetic character of the subject structure or the relationship and congruity between the subject structure and its neighboring structures and surroundings, including but not limited to form, spacing, height, yards, materials, color, or rhythm and pattern of window and door openings in building facades; nor shall the proposed work adversely affect the special character or special historic, architectural or aesthetic interest or value of the overall historic site, ~~or historic district, or Multiple Property Designation.~~ Except where special standards and guidelines have been specified in the designation of a particular historic resource, ~~or historic district, or Multiple Property Designation,~~ or where the board has subsequently adopted additional standards and guidelines for a particular designated historic resource, ~~or historic district, or Multiple Property Designation,~~ decisions relating to alterations or new construction shall be guided by the U.S. Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

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(i) *Demolition by neglect.*

- (1) *Demolition by neglect prohibited; affirmative maintenance required.* The owner(s) of a property designated historic pursuant to this chapter, which includes a property either individually designated, ~~or designated as a contributing property within a historic district~~ or designated as a Thematically-Related Historic Resource within a Multiple Property Designation as defined by this chapter, shall comply with all applicable codes, laws, and regulations governing the maintenance of the property. It is the intention of this section to preserve from deliberate negligence, or inadvertent neglect the exterior features of property designated historic and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

- a. Facades which may fall or damage the subject property, adjoining property, or injure members of the public.
 - b. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls, or other vertical structural supports.
 - c. Members of ceilings, roofs, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
 - d. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken or missing windows or doors.
 - e. Any fault or defect in the property which renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.
 - f. Defective or insufficient weather protection which jeopardizes the integrity of exterior or interior walls, roofs, or foundation, including lack of paint or weathering due to lack of paint or protective covering.
 - g. Any structure designated historic which is not properly secured under the Florida Building Code or other technical codes and is accessible to the general public; or, any fault or defect on the property designated historic that renders it structurally unsafe or not properly watertight.
 - h. Spalling of the concrete of any portion of the interior or exterior of the structure designated historic.
- (2) *Unreasonable or undue economic hardship.* A property owner who believes that application of this section creates an unreasonable or undue economic hardship, as that term is defined by this chapter, may apply for a special certificate of appropriateness to the board within 15 days of having notice or knowledge of any defect(s) referred to in this section. The procedure employed by the board shall be the same as for the consideration of a special certificate of appropriateness under this chapter. The board may grant the owner an extension of time to comply with corrective work or limit the scope of the corrective work.
- (3) *Enforcement.*
- a. *Notice of administrative enforcement.* Enforcement shall be as provided pursuant to Chapter 2, Article X, entitled "Code Enforcement," of the City of Miami Code, as amended.
 - b. *Civil actions for injunction and remedial relief; lien on property.* In addition to code enforcement remedies, if the property owner fails to take corrective action within the time prescribed, the city may file any civil action ordering the property owner to take corrective actions and the city may seek damages and seek any other relief available under Florida Law. The court may order an injunction providing such remedies if the city proves that the owner has violated this ordinance and such violation threatens the integrity or existence of a designated historic property. In the event that a court order authorizes that the city enter into the property and take corrective action, the cost of the corrective action incurred by the city shall be a municipal special assessment lien against the property. Such lien shall, until fully paid and discharged, be of equal rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles, claims in, to or against the real property involved. Such liens may be instituted and enforced pursuant to Chapter 173, Florida Statutes, as amended, or the collection and enforcement of payment thereof may be accomplished by any

other method authorized by law. The property owner shall pay all costs of collection, including reasonable attorney's fees, service charges, civil penalties, and liens imposed by virtue of this ordinance.

* * * *

Sec. 23-6.4. - Signage.

(a) *Historic signs.*

Historic signs shall be permitted to remain and to be repaired, restored, structurally altered, reconstructed, or relocated utilizing the certificate of appropriateness process. Historic signs may possess intrinsic importance or acquire that importance as a result of their association with the historic resource through which they have become associated.

In determining whether a sign is "historic," the HEPB shall consider whether it is:

- (1) Associated with historic figures, events, or places.
- (2) Significant as evidence of the history of the product, business, or service advertised.
- (3) Significant as reflecting the history of the building or the development of the historic district or Multiple Property Designation (A sign may be the only evidence of a building's historic use).
- (4) Characteristic of a special historic period, such as gold leaf on glass, neon, or stainless steel lettering.
- (5) Integral to the building's design or physical fabric; as when a sign is a part of a storefront made of Carrara glass or enamel panels, or when the name of the historic firm or the date is rendered in stone, metal or tile, (in such cases, removal can cause damage to the materials; or affect the integrity of the building's original design);
- (6) Outstanding examples of the sign maker's art. Whether because of their excellent craftsmanship, use of materials or design;
- (7) Recognized as a local landmark because of its prominence and popular recognition as a focal point in the community;
- (8) Assists in defining the character of a district as for example marquees in theater districts, or prominent neon signs associated with the proliferation of motels dependent on the tourism industry.

In conjunction with allowing the retention, restoration, rehabilitation, and/or reconstruction of a historic sign, the HEPB shall make specific findings establishing how the subject sign meets these established criteria.

(b) *District marker signs.*

(1) *Definitions.*

District marker sign is an artistic sign that has been in existence for at least 20 years which is painted on the side of a building and marks the entrance to a neighborhood, park, or other designated historic, public or geographical area that serves to identify the area, mark a historic destination for visitors, and reinforce the neighborhood's character as a destination for art, culture, dining, and entertainment.

- (2) *Exemptions.* In areas designated cultural specialty district, art and theater cultural specialty district pursuant to chapter 4, or historic districts or Multiple Property Designations designated pursuant to chapter 23 of the City Code that are located in a

T-5 or less restrictive zoning transect, the city manager, or his/her designee, may permit one district marker sign of not greater than 5,000 square feet in size nor greater than 80 percent of the area of a building wall oriented to face major traffic thoroughfares that serve as the entrance to the district or area.

Each district or area marker sign shall be comprised solely of "Welcome to [the district or area]," and a commercial message related to the unique character of the district or area and recognizing the district or area marker sign sponsor, whose commercial message shall be limited to no more than 15 percent of the area of the district or area marker sign. The "Welcome to [the district or area]" portion of the district or area marker sign shall not contain any point of sale signage or commercial message related to the donor or sponsor. District and area marker signs as set forth in this paragraph shall be exempt from the general provisions of chapter 62, but for uniformity, all district and area marker signs are subject to compliance with county, state and federal laws.

No district or area marker sign shall contain adult content as defined in the Miami 21 zoning ordinance.

ARTICLE II. AD VALOREM TAX EXEMPTION

DIVISION 1. - GENERALLY

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Sec. 23-9. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

* * * *

Historic property tax exemption covenant means a form that complies with applicable state Statutes and accompanying rules, and is an agreement made between the property owner and the city, indicating that the owner agrees to maintain and repair the property so as to retain the architectural and historical integrity of the property during the exemption period.

Historic property means a building, site, structure, or object that is:

- (1) Individually listed in the National Register of Historic Places;
- (2) A contributing property in a National Register listed historic district;
- (3) Designated as a historic property or landmark under the provisions of chapter 23; ~~or~~
- (4) A contributing property in a historic district designated under the provisions of chapter 23; or
- (5) A Thematically-Related Historic Resource within a Multiple Property Designation.

* * * *

Sec. 23-10. - Historic tax exemption.

This exemption shall apply to 100 percent of the assessed value of all improvements to eligible historic properties that result from restoration, renovation or rehabilitation made on or after the effective date of this ordinance. The exemption applies only to taxes levied by the city. The exemption does not apply to taxes levied for the payment of bonds or to taxes authorized

by a vote of the electors pursuant to section 9(b) or section 12, article VII of the Florida Constitution.

Eligible properties. A property is qualified for an exemption under this section if at the time the exemption is granted the property is:

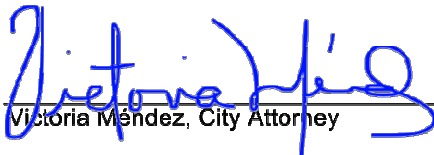
- (1) Individually listed in the National Register of Historic Places, pursuant to the National Historic Preservation Act of 1966, as amended;
- (2) A contributing property within a National Register listed district;
- (3) Individually listed in the city register of historic places; or
- (4) Identified as a contributing structure within a historic district listed in the city register of historic places; or
- (5) A Thematically-Related Historic Resource within a Multiple Property Designation.

* * * *

Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.²

APPROVED AS TO FORM AND CORRECTNESS:



Victoria Méndez, City Attorney

2/14/2018

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.