



City of Miami

Legislation

Ordinance: 13785

City Hall
3500 Pan American Drive
Miami, FL 33133
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File Number: 3374

Final Action Date: 9/13/2018

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 23 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "HISTORIC PRESERVATION," TO ALLOW FOR THE TRANSFER OF DEVELOPMENT DENSITY FROM HISTORIC RESOURCE SENDING SITES TO CERTAIN RECEIVING SITES, LOCATED WITHIN TRANSIT ORIENTED DEVELOPMENT AREAS WITH CERTAIN REQUIREMENTS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

SPONSOR(S): Vice Chair Ken Russell, Commissioner Joe Carollo, Mayor Francis Suarez

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, the City recognizes that the rehabilitation and maintenance expenses of historic properties can be burdensome; and

WHEREAS, the City recognizes the need to provide an incentive for designation of Historic Resources; and

WHEREAS, the City already provides an incentive in the form of transfer of development rights for Historic Resources; and

WHEREAS, the City recognizes that the value of the development rights for Historic Resources has dropped considerably recently; and

WHEREAS, the City may provide an additional incentive by allowing the transfer of Density units for Historic Resources; and

WHEREAS, the Miami Historic and Environmental Preservation Board ("HEPB") at its meeting on February 6, 2018, following an advertised public hearing, adopted Resolution No. HEPB-R-18-009 by a vote of nine to zero (9-0), Item No. HEPB.1, recommending approval with conditions of the proposed amendment to Chapter 23 of the Code of the City of Miami, Florida, as amended ("City Code"), titled "Historic Preservation," to provide incentives by allowing the transfer of density units for Historic Resources; and

WHEREAS, the Miami Planning, Zoning and Appeals Board ("PZAB") at its meeting on March 26, 2018, following an advertised public hearing, adopted Resolution No. PZAB-R-18-014 by a vote of six to one (6-1), Item No. PZAB.9, recommending approval of the proposed amendments to Chapter 23 of the City Code; and

WHEREAS, changes to the Comprehensive Land Use Plan and Ordinance No. 13114, the Zoning Ordinance of the City of Miami, Florida, as amended ("Miami 21 Code"), will accompany this legislation to make it effective; and

WHEREAS, the City Commission, after careful consideration of this matter, deems it advisable and in the best interest of the general welfare of the City and its citizens to amend Chapter 23 of 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, titled "Historic Preservation," is hereby amended in the following particulars:¹

"CHAPTER 23

HISTORIC PRESERVATION

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:

* * * *

- (5) Provide an incentive for historic resources, and those deemed "eligible" by the city HEPB for historic designation, known as "Transfer of Development Rights and Density for Historic Resources."

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.

- (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 and Density, 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.

* * * *

- (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:

* * * *

Certificate of transfer eligibility. A written document issued by the Planning Director or or designee to the eligible historic resource (sending site), stipulating the amount of area and/or Density available for transfer.

Certificate of Transfer. A document issued by the Planning Director or designee that authorizes the transfer of specified undeveloped rights from a Historic Resource (Sending Property) to a Receiving Site. Certificates of Transfer shall comply with all applicable Land Development Regulations as that term is defined by Florida Statute 163.3164, as amended, "Community Planning Act; definitions".

* * * *

Density. Density will be as defined by Article 1 of Miami 21 and by Section 163.3164, Florida Statutes, as amended, "Community Planning Act; definitions," which provides that it means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

Eligible historic resource. A term used to describe archaeological sites and individual buildings, which have not yet been locally designated under the provisions under this chapter but have met the eligibility criteria and been certified by the historic and environmental preservation board as having met that criteria; so that they may take advantage of the transfer of development and Density rights programs, providing that their owners commit to the official local designation within a period of one year from the board's approval of the determination of eligibility.

* * * *

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.

* * * *

Receiving site. A parcel or parcels that have increased their development rights and/or density through the purchase and application of a historic TDR and/or TDD purchase.

Sending property. The qualifying historic resource that is selling its unused base development rights and/or development Density to the receiving site.

* * * *

Transfer of Development Density (TDD). The sale of the unused development Density to another party upon a binding written commitment that results in the restoration, rehabilitation, and/or preservation of the Historic Resource for the public benefit. A TDD shall comply with all applicable Land Development Regulations as that term is defined by Section 163.3164, Florida Statutes, as amended, "Community Planning Act; definitions".

* * * *

Sec. 23-6. Transfer of development rights and Density 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 and Density rights for historic resources may be converted into an asset that may be sold to a receiving site. Receiving Sites for unused development rights will be located within a T-6 transect, where a public benefits bonus may be used. Receiving Sites for unused development Density will be located near a Transit Oriented Development ("TOD") pursuant to Article 4 of Miami 21, the Zoning Ordinance of the City of Miami, Florida, as amended or superseded. Publicly owned Sending Properties may transfer Density at a discounted rate for use as Affordable Housing. 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 and TDD 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~~ T3-O transect Zone 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 of the City Code.
- ~~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 and TDD programs, 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 or Density ("TDR or TDD") programs under the terms of section 23-6, the Zoning Administrator or his/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. The Zoning Administrator or designee shall also calculate the unused Density potential that may be transferred to a Receiving Site rounding up to the nearest hundredth, 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 and TDD incentive as further described in subsection (2).
- (2) *Miami Modern (MiMo)/Biscayne Boulevard historic district.* On June 6, 2006, the HEPB designated that portion of Biscayne Boulevard from NE 50th Street on the South to NE 77th Street on the north, as a historic district. Historically, Biscayne Boulevard was a premier shopping destination, and later the principal corridor leading tourists to the spectacular attractions in the Miami area.

As the MiMo/Biscayne Boulevard historic district is the only overwhelmingly commercial historic district in the city that has been listed in the Miami register of

historic places, it is deemed deserving of special considerations not applicable to the residential historic districts.

Over the years, inappropriate infill construction changed the character of Biscayne Boulevard, resulting in a less-than-cohesive character. It is the desire of the city to encourage new construction and improvements or remodelings to existing structures so that they either return to the classic types prevalent during the historic periods of significance, or represent an improvement that maintains the high standards of appearance for the entire historic district, as determined by the HEPB.

Further, the TDR and TDD incentives shall be available to the structures judged as non-contributing only in the MiMo/Biscayne Boulevard historic district and only when the proposed work will bring the property closer to becoming a contributing structure as determined by the HEPB. The incentive for non-contributing buildings is intended to promote reinvestments within the overall area encompassed by the historic district leading to its betterment.

(a). *Permitted uses.* In a further effort to maintain a balance of retail, entertainment, lodging and services uses, any commercial, civic, civil support, and educational use within the MiMo Biscayne historic district shall be limited to only those permitted under the T4-O Transect Zone.

(b). *Calculations of available development rights and development Density (sending property) for the MiMo (Miami Modern)/Biscayne Boulevard Historic District.*

1. For those contributing properties contained within the Miami Modern (MiMo)/Biscayne Boulevard Historic District deemed eligible by the preservation officer to participate in the TDR and TDD programs under the terms of section 23-6, the zoning administrator or their 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. The Zoning Administrator or designee shall also calculate the unused Density potential that may be transferred to a Receiving Site rounding to the nearest hundredth unit, thereby recognizing the additional requirements associated with the rehabilitation of a historic property. Notwithstanding these calculations, based on the allowable development rights prescribed by the Miami 21 Code transects for this historic district, no building or structure contained within the boundaries of the Miami Modern (MIMO)/Biscayne Boulevard historic district shall exceed 35 feet in height. Buildings existing at the time of passage of the ordinance from which this section derives shall be grandfathered and allowed to remain.

For those non-contributing properties contained within the Miami Modern (MiMo)/Biscayne Boulevard Historic District as described in section 23-6, the zoning administrator or their designee shall calculate the base unused development rights at 175 percent per square foot of the total available square feet permitted by the underlying transect which shall be available for transfer (sale). The lot itself may be developed at 100 percent of its capacity under the requirements of the historic district guidelines, and the Miami 21 Code. Notwithstanding these calculations, based on the allowable development rights prescribed by the Miami 21 Code transects for this historic district, no building or structure contained within the boundaries of the Miami Modern (MIMO)/Biscayne Boulevard historic district shall exceed 35 feet in height.

Buildings existing at the time of passage of the ordinance from which section derives shall be grandfathered and allowed to remain.

* * * *

- (4) *Qualification as an eligible historic resource—Requirements and certification process.* A property may be determined eligible for local historic designation in order receive a "certificate of eligibility," and therefore take advantage of the transfer of development rights and Density provisions, provided that the building meets certain eligibility criteria; and that a formal application for local historic designation is submitted to the planning department within one year from the date the eligibility application is approved by the historic and environmental preservation board. The time period may be extended by HEPB. If the application is not received within one (1) year of the period of extension, the "certificate of eligibility" will be withdrawn. If sale of development rights or Density has taken place without designation, proceeds must be paid to the City for the Historic Preservation Trust Fund. If proceeds are not paid to the City, a lien on the property equal in value to the proceeds plus a 5% administrative fee will be placed on the property.

* * * *

- (8) *Requirements for the preservation of eligible historic resources (sending properties) using the provisions of the TDR & TDD—Application process.* The purpose of this incentive is to ensure that historic resources are preserved for the public benefit, public welfare, conservation, and aesthetics. The requirements that follow apply to all buildings which make use of the TDR and TDD programs. The use of the TDR and TDD for Historic Resources requires the demonstration and evidence that establishes the sound physical condition of the sending resource; or that the rehabilitation treatments, if needed, will be undertaken within a reasonable period, and that the owner (and subsequent owners) is covenanted to maintain the property. resource will be tied to capital improvements on the Sending Property. The quantity of TDD and TDR value available for sale will be tied to the value set out in the Building Permit application for large scale work or a signed contract for smaller scale improvements at a ratio specified below. A restrictive covenant to maintain the property is also required, must be in a form acceptable to the City Attorney, and must be recorded in the Public Records of Miami-Dade County. Any work approved by a Certificate of Appropriateness with an active Building Permit or issued a Certificate of Occupancy after April 1, 2012, shall qualify if it meets the criteria specified below.

Therefore, following the qualification of any eligible historic resource, the applicant requesting the certificate of transfer shall provide the planning department with:

- a. A copy of the Building Permit application which lists the estimated cost of construction or a signed contract with a licensed and insured contractor for work approved by a Certificate of Appropriateness.
- b. A determination of the maximum value of the saleable TDR and TDD resource. The applicant will determine the maximum value of the proposed sale of the combined Transferable Development Rights and Transferable Development Density. The value will equal the following:

1. The expenses directly related to the construction of the building (hard costs such as materials, supplies, and equipment) as determined in the Building Permit application construction cost estimate or by providing a signed contract for work. Soft costs such as professional costs are excluded.
 2. An additional thirty percent (30%) over the hard cost value, with the thirty percent (30%) broken down as follows:
 - A. Twenty percent (20%) of the value of capital improvements for use by the applicant for fees associated with design, financing, legal, and other pre- and post- construction expenses (soft costs).
 - B. Ten percent (10%) of the value of the capital improvements to be retained temporarily by the City in the form of either a letter of credit or a bond after the sale of the resource. The bond will be released back to the applicant upon confirmation of the completion of the work as outlined in Section (11) below.
- ~~1. An "existing conditions report" prepared by a registered engineer or architect that at a minimum records the data required by the building code upon periodic recertification; and which must include an evaluation of the current condition of the:~~
- A. ~~Wall construction:~~
 - i. ~~Masonry bearing walls;~~
 - ii. ~~Steel/concrete framing systems;~~
 - B. ~~Roof construction;~~
 - C. ~~Windows (noting those that are replacements, and those that appear to be originals);~~
 - D. ~~Exterior doors (noting those that are replacements and those that appear to be originals);~~
 - E. ~~Exterior balconies, if applicable;~~
 - F. ~~Decorative ornament (e.g. cast concrete medallions, pilasters, string courses, etc., as applicable);~~
 - G. ~~Elevators (if applicable);~~
 - H. ~~HVAC system;~~
 - I. ~~Plumbing;~~
 - J. ~~Electrical;~~
 - K. ~~Fire protection/life safety systems (if any);~~
 - L. ~~Handicapped accessibility.~~
- ~~2. A "maintenance plan" will be submitted concurrently with the existing conditions report and shall list those items and/or systems that have been identified as deficient, deteriorated, or non-existent, in the existing conditions report. The maintenance plan will at a minimum provide:~~
- A. ~~A prioritized schedule that identifies those elements in substandard condition, in need of imminent repair/replacement, and a schedule for their repair.~~
 - B. ~~A prioritized schedule for the correction of any other deficiencies identified in the existing conditions report.~~

~~C. A long range plan that addresses the cyclical maintenance of the property.~~

- (9) *Requirements for the issuance of TDRs for "non-contributing" properties within the Miami Modern (MiMo)/Biscayne Boulevard historic district.*

"Non-contributing" properties. The intent of the special incentives along Biscayne Boulevard is to provide capital for improvements to buildings that may have fallen into disrepair, and thus contribute to the overall appearance and stability of the boulevard as a whole. Therefore, following the qualification of a non-contributing property as eligible for the TDR and TDD benefits, the owner/applicant shall provide the planning department with:

1. All materials as laid out in Subsection (8) above.
A "maintenance plan" as described in subsection (3)i.2.
- ~~—~~ A special certificate of appropriateness application for the improvements to be made to the structure, noting the improvements designed specifically to promote a harmonious relationship with other structures within the boulevard historic district.
3. The special certificate of appropriateness will be processed in accordance with the provisions contained in section 23-6.2.

- (10) *Release of conditional certificate of transfer.* The Planning Director, or ~~their~~his/her designee, will prepare the conditional certificate of transfer for the unused development rights and Density for historic resources ~~so classified as automatically eligible as established by subsection (1) a. or after the resource has been determined eligible under the terms of subsection (3).~~ The certificate of transfer will be issued only after one of the following conditions has been met: upon receipt of an approved Building Permit for the Historic Resource or an executed contract for work approved by a Certificate of Appropriateness. The conditional Certificate of Transfer will allow for sale of unused development rights and Density, but will expire within a set period of time and render all transactions void unless additional criteria are met as described below in subsection (11). The conditional Certificate of Transfer will be released when:

1. ~~An existing conditions report and long term maintenance report is on file with the planning department, and that the results of the existing conditions report demonstrate that the resource is in compliance with the building code, and is in no need of repairs; A Building Permit for the Historic Resource has been issued or a copy of an executed contract, including proof of applicable bonding, funding, and insurance requirements, for work approved via a Certificate of Appropriateness has been submitted in the event the work does not require a Building Permit.~~

~~A. The approved Building Permit must be for work reviewed by the HEPB.~~

~~B. The approved Building Permit must match that permit applied for and used for calculating the value of the sale pursuant to Subsection (8).~~

~~C. When an executed contract is provided rather than a Building Permit, proof of licensure and insurance for the contractor shall be provided.~~

~~An existing conditions report and long term maintenance report is on file with the planning department, and the existing conditions report has identified deficiencies in the soundness of the building, and the owner has:~~

- ~~A. Presented detailed plans to correct the deficiency(ies) to the preservation officer, with a schedule identified with which to complete the repairs, not to exceed 12 months from the date the plans have been submitted;~~

~~B. That a bond (representing the value of the improvements necessary to correct the deficiencies) has been posted with the city to be used in the event the owner defaults from their promise to make the necessary repairs;~~

(11) ~~Covenant (sending property)~~ Release of Certificate of Transfer. The Planning Director, or designee, will prepare the non-conditional Certificate of Transfer for the unused development rights and Density for historic resources ~~so classified as automatically-eligible as established by subsection (1)a. or after the resource has been determined-eligible under the terms of subsection (3). The certificate of transfer may only be issued following the applicant's fulfillment of the requirements contained in subsections (3)i.1. and (3)i.2., and following the filing of restrictive covenant with the city, which covenant shall provide upon completion of the following:~~

1. Filing of a restrictive covenant with the City by the Sending Property. The restrictive covenant shall be in a form acceptable to the City Attorney and be recorded at the owner's expense in the public records of Miami-Dade County within thirty (30) days of its acceptance by the City. The original restrictive covenant or a certified copy of the recorded restrictive covenant to be furnished to the Planning Director within thirty (30) days of it being recorded will be maintained by the Planning Department. The restrictive covenant shall provide:

~~4A. That the eligible historic resource will be maintained to a standard consistent with the building department's standards for "Forty (40) year recertification";~~

~~2B. That the requirement for long-term maintenance will follow the title to the property through any subsequent owners;~~

~~3C. That the city will be advised of any change in property ownership.~~

~~The original covenant will be maintained by the planning department, and a copy filed with the Miami-Dade County clerk of the courts.~~

2. A bond or irrevocable letter of credit representing a minimum of ten percent (10%) of the value of the improvements proposed in the building permit has been posted with the City's Planning Department to be used in the event the owner defaults from the owner's promise to make the improvements. A bond shall be written by an approved surety company and shall comply with state law so as to be substantially in the form provided by Section 255.05, Florida Statutes, and shall carry the name and address of a local representative. Any irrevocable letter of credit shall be drawn on a local bank, which means a national bank authorized to transact business in Florida and maintaining an office in Miami-Dade County. Any bond or irrevocable letter of credit shall be in a form acceptable to the City's Risk Management Department and City Attorney and must name the City as the sole beneficiary/obligee/payee as applicable.

A. A bond or irrevocable letter of credit will be released back to the owner following the full completion and acceptance of the work and the issuance of a Certificate of Occupancy and/or a review of the work by the Historic Preservation Officer or the Historic Preservation Officer's designee.

B. In the case where a cost-of-work estimate was provided rather than a building permit, the Historic Preservation Officer or the Historic Preservation Officer's designee will review proof of payment and the contractors and/or sub-contractor's final release(s) and waiver(s) of lien prior to release of the bond or letter of credit.

C. If the Historic Preservation Officer or Historic Preservation Officer's designee determines that the work is not completed pursuant to the approved plans and

standards reviewed by the HEPB, the City will collect on the bond or letter of credit and deposit funds into the Historic Preservation Trust Fund.

D. An owner may appeal the decision to collect on the bond to the HEPB.

3. Submission to the City's Department of Planning of a copy of the sales contract for the TDD and/or TDR between the buyer and seller of the resources.
4. Submission to the City's Department of Planning of an affidavit stating that the buyer and seller of the TDR and TDD resources are acting independently and have no other relationship to each other; that both parties in the transaction are acting in their own self-interest and are not subject to any pressure or duress from the other party; and that there is no collusion between the buyer and seller (a.k.a. an Arm's Length Transaction).

* * * *

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:



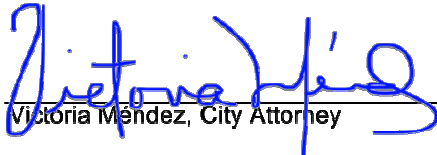
Barnaby L. Min, Deputy City Attorney

4/17/2018



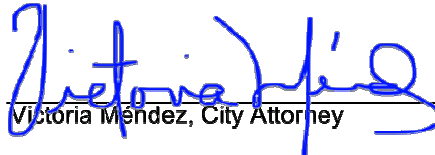
Barnaby L. Min, Deputy City Attorney

4/17/2018



Victoria Méndez, City Attorney

7/17/2018



Victoria Méndez, City Attorney

9/4/2018

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.