



# City of Miami

## Legislation

### Ordinance: 13008

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File Number: 08-00146zt

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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," BY ALLOWING THE HISTORIC AND ENVIRONMENTAL PRESERVATION BOARD (HEPB) TO GRANT WAIVERS FOR LOCALLY DESIGNATED HISTORIC RESOURCES; PROVIDING DEFINITIONS AND ESTABLISHING PROVISIONS FOR: (1)"TRANSFER OF DEVELOPMENT RIGHTS FOR HISTORIC RESOURCES;" A PROCESS WHEREBY OWNERS OF HISTORICALLY SIGNIFICANT PROPERTIES OR NON-CONTRIBUTING PROPERTIES WITHIN THE DESIGNATED MIAMI MODERN ("MIMO")/BISCAYNE BOULEVARD HISTORIC DISTRICT MAY SELL BASE UNUSED DEVELOPMENT RIGHTS; (2)REQUIRING THE BENEFIT FROM SUCH TRANSFER TO BE USED FOR FUTURE IMPROVEMENTS AND MAINTENANCE OF ORIGINATING HISTORIC PROPERTIES; (3)CREATING AN ELIGIBILITY PROCESS FOR HISTORIC RESOURCES WHEREBY THOSE PROPERTIES NOT YET LOCALLY DESIGNATED MAY QUALIFY FOR THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM BEING ESTABLISHED; (4)ESTABLISHING A MONITORING PROCESS TO INSURE COMPLIANCE WITHIN THE TRANSFER OF DEVELOPMENT RIGHTS PROCESS; (5)CREATING A TRACKING SYSTEM WITHIN THE BUILDING PERMIT PROCESS THAT LIMITS CAPACITIES FOLLOWING THE SALE OF THE DEVELOPABLE TRANSFER RIGHTS SUBJECT TO THE APPLICABLE PROVISIONS OF THE ZONING ORDINANCE; (6)ALLOWING WAIVERS FOR LOCALLY DESIGNATED HISTORIC RESOURCES BASED ON CERTAIN STANDARDS; AND (7)ESTABLISHING PROCEDURES FOR NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES; MORE PARTICULARLY BY AMENDING SECTIONS 23-1 THROUGH 23-9 OF THE CODE OF THE CITY OF MIAMI; FURTHER AMENDING ORDINANCE NO. 11000, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA, TO AMEND ARTICLE 7, ENTITLED "HP HISTORIC PRESERVATION OVERLAY DISTRICTS," THAT ADDRESSES "DEVIATIONS" CONCERNING HISTORIC STRUCTURES, AND PROVIDING FOR CERTAIN PROVISIONS OF SAID ARTICLE ARE INCORPORATED IN THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, AND TO ADD RESTAURANTS AS A CONDITIONAL USE WITH APPROPRIATE SAFEGUARDS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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 increasing competition for land and the relative expense of maintaining significant resources in their historic condition has made historic preservation exceedingly difficult financially, particularly when the land is zoned for high density use; and

WHEREAS, areas within the City exist where greater intensity may be desirable and these areas may be described as "receiving sites" for the purpose of the sale of transfers of development rights ("TDRs"), and

WHEREAS, historic resources exist within the City that have not yet been historically designated, but would be eligible for designation, and thus for the incentive offered by a Transfer of Development Rights incentive; and

WHEREAS, certain provisions of Ordinance 11000, the Zoning Ordinance of the City of Miami, with respect to open space, off-street parking, minimum lot size, signage and/or loading requirements prevent a historic resource from strict compliance, and sometimes precludes viable use; and

WHEREAS, as a Certified Local Government, recognized by the Division of Historical Resources, Florida Department of State, the City of Miami is required to review nominations to the National Register of Historic Places; and

WHEREAS, it has been identified that certain provisions of Ordinance No. 11000, of the Zoning Ordinance of the City of Miami, Florida, as amended, relating to Historic Preservation should be removed from the Zoning Ordinance and incorporated into Chapter 23 of the City Code for ease of use; and

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 Code of the City of Miami, Florida, as amended, entitled "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 ~~sites~~ resources, historic districts, 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 pertaining to minimum lot size, setbacks, minimum lot widths, building footprint, green space, off-street parking and/or loading requirements, for those structures deemed individually significant, or "contributing" within a designated historic district.

(3) Provide a mechanism whereby the HEPB may, in the interests of historic preservation, waive up to 20% of the underlying zoning district requirements for building footprint or green space, for either an addition to an existing locally-designated historic resource, or a "contributing" building within a historic district.

(4) Provide a mechanism whereby the HEPB 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.

(5) Provide an incentive for historic resources, and those deemed "eligible" by the City of Miami 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 Miami Register of Historic Places within one year from the date of the HEPB'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 Florida Division of Historical Resources.

~~(2)(8)~~ Assure that alterations and new construction within designated historic sites, historic districts, and archaeological zones are compatible with the property's historic character.

(c) Pursuant to section 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:

*Accelerated Certificate of Appropriateness.* A review of proposed physical changes to a historic resource that is conducted by the Board concurrently with a request for historic designation.

*Adaptive Use.* The process of converting a building to a use other than that for which it was designed.

*Addition.* A construction project physically connected to the exterior of a building.

*Alteration.* Any change affecting the exterior appearance of a structure or its setting by additions, reconstruction, remodeling, or maintenance involving change in color, form, texture, signs, or materials, or any such changes in appearance of designated interiors.

*Applicant.* The owner of record of a property and/or structures located thereon, or ~~his~~ their authorized representative.

*Application, complete.* An application for approval sought pursuant to this chapter shall be deemed complete if it is on a form approved by the City and all applicable information is provided by the applicant on the form, or attachment(s), as applicable or necessary, at the time of its filing and all required fees are paid.

*Archaeological conservation area.* A geographically defined area delineated in the Miami comprehensive neighborhood plan on the future land use plan map series entitled "Historic District Boundaries and Historically Significant Properties Meriting Protection" where the probability of sub-surface artifacts is considered likely.

*Archaeological site.* A single specific location which has yielded or is likely to yield information on local history, prehistory, or paleontology, and which has been designated as such through the provisions of this chapter. ~~Archaeological sites may be found within archaeological zones, historic sites, or historic districts.~~

*Archaeological zone.* A geographically defined area which may reasonably be expected to yield information on local history, prehistory, or paleontology based upon broad prehistoric or historic settlement patterns, and which has been designated as such through the provisions of this chapter.

*Certificate of Appropriateness.* A written document, issued pursuant to this chapter, permitting specified alterations, demolitions, ~~ground-disturbing activity,~~ or other work; or to allow certain waivers from the criteria set forth in the Zoning Ordinance and this Chapter.

*Certificate of Approval.* A written document permitting tree removal or development activity within those areas identified and established as environmental preservation districts or scenic transportation corridors.

*Certificate of Transfer.* A written document issued by the Planning Director to the eligible historic

resource (sending site), stipulating the amount of area available for transfer.

Certificate to Dig. A written document permitting certain ground disturbing activities, such as filling, grading, swimming pool excavation and the removal of vegetation or trees that may involve the discovery of as yet unknown or known archaeological resources within a designated archaeological site or zone.

Certified local government. A government satisfying the requirements of the U.S. National Historic Preservation Act amendments of 1980 (Public Law 96-515) and the implementing of applicable regulations of the Department of the Interior and the State of Florida.

~~Contributing structure/landscape feature. A structure or which by location, design, setting, materials, workmanship, feeling, and association adds to the sense of time and place and historical development of a historic site or historic district.~~

Contributing resource/landscape feature. A building, landscape feature, site, structure or object that adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because: it was present during the period of significance of the district, and possesses historic integrity, reflecting its character at that time; or it is capable of providing important information about the period; or it independently meets the National Register of Historic Places criteria for evaluation set forth in 36 CFR Part 60.4 which is deemed as being expressly incorporated by reference in this chapter.

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

~~Designated property; designated historic site; designated historic district; designated archaeological zone. A historic site, historic district, or archaeological zone designated pursuant to either this chapter or article 16 of Ordinance No. 9500, the previous zoning ordinance of the city, as amended, and shown in the historic and environmental preservation atlas.~~

Eligible Historic Resource. A term used to describe archaeological sites and individual buildings, which have not yet been locally designated under the provisions of Chapter 23, but have met the eligibility criteria, and been certified by the HEPB as having met that criteria, so that they may take advantage of the Transfer of Development Rights program, 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.

Environmental Preservation District. Geographical areas, parcels or corridors, which have been or may be identified in the future, established by the City Commission as significant natural or artificial attributes in need of preservation and control because of their educational, economic, ecological and environmental importance to the welfare of the general public and the City as a whole, and identified in the Official Atlas of Environmental Preservation Districts and Scenic Transportation Corridors.

Existing Conditions Report. A report prepared by a registered architect or engineer that describes the current general condition of an eligible historic resource that is applying for a Certificate of Transfer.

Florida Master Site File (FMSF). The list, or catalog, maintained by the Division of Historical

Resources, of those recorded historical and archaeological sites and properties in the State of Florida, usually the result of a systematic survey.

*Ground disturbing activity.* Any excavation, filling, digging, removal of trees, or any other activity that may alter or reveal an interred archaeological or pale ontological site.

*Historic district.* A geographically defined area possessing a significant concentration, linkage, or continuity of sites or structures united historically or aesthetically by plan or physical development.

*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, and archaeological zones.

*Historic Preservation Waiver:* A difference from what is required under the underlying zoning district provisions and what may be allowed when used to promote historic preservation.

*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, and objects.

*Historic sign.* A sign that has demonstrated artistic, historic, cultural, and/or aesthetic value, as determined by resolution of the HEPB.

~~*Historic site.* A geographically defined area containing a structure or site, or a historically related complex of structures or sites, which has a special character or a special historic or aesthetic interest or value as part of the heritage of the city. The location of a significant event, a prehistoric or historic occupation or activity, or a structure, whether standing, ruined, or vanished, or a vanished structure, where the location itself possesses historic, cultural, archeological, or pale ontological value, regardless of the value of any existing structure. The location of a significant event, a prehistoric or historic occupation or activity, or a vanished structure, where the location itself possesses historic, cultural, archaeological, or pale ontological value.~~

*Infill.* New construction that has been designed and built to replace missing structures or otherwise fill gaps in the streetscape of a historic district.

*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, 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 that has been approved for designation by the City of Miami's HEPB, as prescribed by the provisions of this chapter, and shown in the Historic and Environmental Preservation Atlas.

Maintenance Plan. A written document submitted by the owner of an eligible historic resource for the Transfer of Development Rights program, that identifies any existing deficiencies in the building along with a remediation plan for the short term, and which further identifies a plan for the cyclical maintenance of the building for the long term.

Miami Register of Historic Places. The list of locally designated historic resources that have met the criteria for significance and have been designated by the HEPB, pursuant to the provisions of this chapter.

National Register of Historic Places. The list of historic properties significant in American history, architecture, archaeology, engineering and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966, as amended.

Non-Contributing Resource. A building, landscape feature, object, structure, or archaeological resource that does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because it was not present during the period of significance of the district; due to alterations, disturbances, additions or other changes, it no longer possesses historic integrity reflecting its character at that time, or is incapable of yielding important information about the period; or does not independently meet the National Register of Historic Places criteria for evaluation.

Ordinary maintenance or repair. Any work, the purpose and effect of which is to correct any deterioration or decay of a structure or landscape feature, or any part thereof, by restoring it, as nearly as may be practicable, to its condition prior to such deterioration or decay, using the same materials or those materials available which are as close as possible to the original.

Preservation. The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure. It may include initial stabilization work as well as ongoing maintenance of the historic building.

Receiving Site. A parcel or parcels that have increased their development rights through the purchase and application of a Historic TDR purchase.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished structure as it appeared at a specific period of time.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Relocation. Any change of the location of a structure in its present setting or to another setting.

Restoration. The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Scenic Transportation Corridor. Those roadways that have been identified as having a unique landscape character and/or an expansive tree canopy that is of substantial environmental importance to the City, as described in Section 17-31(3) of the Miami City Code.

Sending Property: The qualifying historic resource that is selling its unused base development rights to the receiving site.

~~Site.~~ The location of a significant event, a prehistoric or historic occupation or activity, or a structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, archeological, or paleontological value regardless of the value of any existing structure.

*Structure.* Anything constructed or erected, the use of which requires a fixed location on the ground or attachment to something having fixed location on the ground.

Transfer of Development Rights (TDR) for Historic Resources. The sale of the unused development rights 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.

*Unreasonable or undue economic hardship.* An onerous and excessive financial burden that destroys reasonable and beneficial use of property and that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income-producing properties.

### **Sec. 23-3. Historic and environmental preservation board; preservation officer.**

The Historic and Environmental Preservation Board (hereinafter referred to as the "board") and the preservation officer, as established pursuant to sections 62-186 and 62-191 of the City Code, as amended, shall carry out the duties as assigned by this chapter and other applicable laws.

### **Sec. 23-4. Designation of historic sites resources, historic districts, and archaeological sites and zones.**

(a) *Criteria for designation.* Properties may be designated as historic sites, resources, historic districts, 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, economical, 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 fifty (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 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; or

(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; or

(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; or

(4) A reconstructed building when accurately executed in a suitable environment and presented appropriately as part of a restoration master plan and no other building or structure with the same association has survived; or

(5) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

(6) A property achieving significance within the past fifty (50) years if it is exceptionally important; or

(7) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(b)(c) Procedures for designation. Properties which meet the criteria set forth in subsection 23-4(a) may be designated as historic ~~sites~~resources, historic districts, 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 commission, the planning ~~and zoning~~ department, any other city department, agency, or board, ~~the Miami-Dade County historic preservation board~~, or any interested citizen, organization, agency, association, board, or business entity. The board shall conduct a preliminary evaluation of the data provided in the proposal for conformance with criteria set forth in subsection 23-4(a); and shall, if appropriate, direct the planning ~~and zoning~~ 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, if any, 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.

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 ~~and zoning~~ department to prepare a designation report in accordance with subsection 23-4(b)(1); or

2. The board approves or denies the designation in accordance with subsection 23-4(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 ~~approval of a~~ 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 23-8. 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(f)-23-8 (f)~~.

(2) *Preparation of designation report.* For every proposed historic site resource, historic district, and archaeological zone, the planning ~~and zoning~~ 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 site, resource, historic district, 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; 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 ~~sites~~ 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. 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 ~~site~~resource, historic district, archaeological site or zone meets the criteria set forth in subsection 23-4(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 23-4(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 ~~thirty (30)~~ fifteen (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, of this Code.

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 ~~as set forth in section 62-156 for the mailing~~ 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, 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 of Miami'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.**

~~(5)(7)~~ *Appeals.* The property owner, any one member of the City Commission, the planning and zoning 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 \$500.00, plus \$3.50 per mailed notice required pursuant to subsection 23-4(b)(3). The city commission shall hear and consider all facts material to the appeal and render a decision promptly. 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 section ~~23-5~~ 23-4(b) shall remain in effect during the entire appeal process, unless stayed by a court of competent jurisdiction.

~~(6)(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.

~~(e)(d)~~ *Effect of designation.* Upon designation, and thereafter, the provisions of section ~~23-5~~ 23-8 shall apply.

**Sec. 23-5. Nomination to the National Register of Historic Places.**

(a) Responsibilities under the certified local government program. As part of the duties under the certified local government program, the HEPB shall receive all nominations to the National Register of Historic Places for any properties located within the City of Miami, following the regulations of the Florida Division of Historical Resources.

(b) Notice requirements. The HEPB shall give notice to the owners of the property at least thirty (30) days but not more than seventy-five (75) days prior to the historic preservation board meeting at which the nomination will be considered. The HEPB shall also obtain a written recommendation from the City Commission and the Miami-Dade Board of County Commissioners whether each property should be nominated to the National Register, and these recommendations shall be given to the HEPB within thirty (30) days.

(c) Owner notification and requirements for comment. The HEPB shall obtain comments from the public that shall be included in the report making a recommendation. Objections to being listed in the National Register by property owners must be notarized and filed with the historic preservation office. Within thirty (30) days after its meeting, the HEPB shall forward to the state historic preservation officer its action on the nomination and the recommendations of the local officials. Appropriate local officials, the owner and the applicant shall be notified of the HEPB's actions.

(d) Referral to the Florida State Historic Preservation Officer. The state historic preservation officer will take further steps on the nomination in accordance with federal and state regulations. If either the HEPB or local officials, or both, support the nomination, the state historic preservation officer will schedule the nomination for consideration by the state review board for the National Register at its next regular meeting. If both the HEPB and the local officials recommend that a property not be nominated to the National Register, the state historic preservation officer will take no further action on the nomination unless an appeal is filed with the state historic preservation officer.

**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.**

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, where a greater intensity is currently allowed. Owners of eligible properties shall be issued a "Certificate of Eligibility" following confirmation that the property meets the criteria established in Section 23-6(a) or has been determined eligible under the process described in Section 23-6 (c) of this Code.

(a) Eligible Properties (Sending Sites).

(1) 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 classified as one or more of the following:

a. Individually listed in the National Register of Historic Places;

b. Listed as a contributing property within a National Register district;

c. Individually listed in the Miami Register of Historic Places under the provisions of Section 23-4 of the Miami City Code;

d. Listed as a contributing property within a local historic district under the provisions of Section 23-4 of the Miami City Code;

e. Qualified as an "eligible historic resource," after having met the criteria for eligibility set forth in sub-section (c) below, and so determined by the HEPB.

f. 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:

1. The building's original appearance can be documented;

2. 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;

3. The owner substantially completes the proposed restoration activity before an application for Transfer of Development Rights is submitted.

(2) 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 Section 23-6 (3)(b).

(b) 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 of Miami 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 incentive shall be available to the structures judged as non-contributing *only* in the MiMo/Biscayne Boulevard Historic District. The incentive for non-contributing buildings is intended to promote reinvestments within the overall area encompassed by the historic district leading to its betterment.

(1) *Standards for the Improvements to Non-Contributing Structures.* When improvements to non-contributing buildings are made, the following guidelines shall be implemented:

a. Use of building materials commonly found in the construction of the "contributing" structures within the historic district;

b. Installation of signage that is in keeping with the periods of significance represented in the district (1924-1956);

c. Architectural design that complements the historic building types and vocabulary which include:

i. Mediterranean Revival

ii. Art Moderne

iii. Art Deco

iv. Miami Modern (MiMo)

v. South Florida Regional Vernacular

e.g. a style or type of building that represents the local or indigenous adaptations of design resultant from the climate, traditions, and available building materials in the region.

Nothing in these standards shall be construed to encourage a false sense of historical appearance. Replications or reconstructions shall be permitted only as specifically allowed by the HEPB, and under the provisions of Section 23-6 (1)(f).

(c) 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 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 (1) year from the date the eligibility application is approved by the historic and environmental preservation board.

1. *Criteria for Eligibility.* In general, the resource must be at least fifty (50) years old and maintain its physical integrity so that it sufficiently conveys its original character; possess integrity of design, setting, material, workmanship, feeling and association, and meet at least one of the following criteria:

- a. is associated in a significant way with the life of a person important in the past;
- b. is the land or location of a historic event with significant effect upon the community, city, state, or nation;
- c. exemplifies the historical, cultural, political, economical, or social trends of the community;
- d. portrays the environment in an era of history characterized by one or more distinctive architectural styles;
- e. embodies the distinguishing characteristics of an architectural style, or period, or method of construction;
- f. is an outstanding work of a prominent designer or builder; and
- g. contains elements of design, detail, materials, or craftsmanship of outstanding quality or which represents a significant innovation or adaptation to the South Florida environment.

2. Application Process and Documentation Required to Qualify as an "Eligible Historic Resource"

Applications for a determination of eligibility in connection with the Transfer of Development Rights program will contain the information required within a local historic designation report, and sufficient supporting documentation to enable the HEPB to make a valid conclusion. The application will include:

- a. photographs of all elevations illustrating the existing conditions;
- b. most recently available copy of the Miami-Dade County Assessor's office record for the property;
- c. affidavit for Proof of Ownership;
- d. written description of the property, noting architectural style, building materials, roof shapes, and ornament, as applicable;
- e. written description of the changes to the property that have occurred over time, as applicable;
- f. results of Miami City Directory search to identify original resident/business establishment, as applicable;
- g. bibliography of historical records used in the research, as applicable;
- h. written evaluation of the property's significance using the criteria established in Section 23-4(a) (1-8);
- i. other information as deemed necessary by the Planning Director; and
- j. any fees specified for this purpose.

3. Review for Certification of an Eligible Historic Resource. Once the application for a Determination of Eligibility has been deemed complete, the Preservation Officer shall schedule the application before the next regularly scheduled meeting of the HEPB. At least ten (10) days prior to the meeting at which the application will be heard, the owner or their designated agent or

representative, shall be notified of the Board's intent to consider the application.

In making its decision as to whether to certify the resource, the Board shall consider:

a. whether the resource is of such interest or quality that it meets one or more of the criteria established by Section 23-4 (a)(1-8);

b. whether the resource maintains its physical integrity, or whether it has been altered to such a degree that it no longer conveys the qualities for which it was deemed historically significant;

c. whether the preservation of the resource will promote the general welfare of the city by providing an opportunity for the study of local history, architecture and design, or develop an understanding of the importance and value of a particular culture and heritage;

d. whether or not the resource is one of the last remaining examples of its kind in the city, region, or state.

4. Should the HEPB find that the proposed resource meets the criteria and considerations to be deemed an eligible historic resource; within thirty (30) days of that decision, a "Certificate of Eligibility" will be prepared by the Historic Preservation Officer, and mailed (via certified mail) to the Applicant.

5. Appeals from the Decision of the HEPB. Appeals shall be made directly to the Miami City Commission, within 15 calendar days after the date of the decision, and follow the procedures described in Section 238(e).

6. Requirement for Local Historic Designation, "Eligible Historic Resources."

a. A resource classified as an "Eligible Historic Resource" may apply for a Certificate of Transfer following the determination of eligibility.

b. Should the applicant apply for and receive a Certificate of Eligibility the eligible historic resource will be required to be locally designated through the formal process described in this chapter, within one (1) year following the HEPB 's determination.

7. Conditions and Safeguards: "Eligible Historic Resources"

a. Upon the determination of eligibility by the HEPB, the owner shall be subject to the restrictions concerning the requirement for the issuance of a Certificate of Appropriateness for changes made to the building. The owner is prohibited from demolishing a structure deemed an eligible historic resource, until such time as an application for a Special Certificate of Appropriateness for demolition under the process contained in Section 23-8 (4) is adjudicated by the HEPB.

b. The "Certificate of Eligibility" will expire within one (1) year from the HEPB's determination, at which time, the property owner must have applied for local historic designation of the resource which had been determined eligible.

8. Calculations of Available Development Rights (Sending Property).

1. For those properties deemed eligible to participate in the TDR program under the terms of Section 23-6 (1), the Zoning Administrator or their designee shall calculate the unused development potential (base development rights) that may be transferred to a receiving property at

100% of the available square feet permitted by the underlying zoning district, thereby recognizing the additional requirements associated with the rehabilitation of a historic property.

2. For those non-contributing properties contained within the Miami Modern ( MiMo)/Biscayne Boulevard Historic District as described in Section 23-6 (B), the Zoning Administrator or their designee shall calculate the base unused development rights at 75% of the total available square feet permitted by the underlying zoning district, which shall be available for transfer (sale). The lot itself may be developed at 100% of its capacity under the requirements of the historic district guidelines, and the Miami Zoning Code.

(9) Requirements for the Preservation of Eligible Historic Resources (Sending Properties) Using the Provisions of the TDR: Application Process.

The purpose of this incentive is to insure that historic resources are preserved for the public benefit. The requirements that follow apply to all buildings which make use of the TDR program. The use of the TDR 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. Therefore, following the qualification of any eligible historic resource, the applicant requesting the Certificate of Transfer shall provide the Planning Department with:

(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.

g. Requirements for the issuance of TDRs for "non-contributing" properties within the Miami Modern (MiMo)/Biscayne Boulevard Historic District.

1. "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 benefit, the owner/applicant shall provide the Planning Department with:

a. An "Existing Conditions Report" as described in Section 23-6 (F) (1).

b. A "Maintenance Plan" as described in Section 23-6 (F) (2).

c. 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.

d. The special certificate of appropriateness will be processed in accordance with the provisions contained in section 23-8 of this ordinance.

(10) Release of Certificate of Transfer

The Planning Director, or their designee, will prepare the Certificate of Transfer for the unused development rights for historic resources so classified as automatically eligible as established by Section 23-6 (1) or after the resource has been determined eligible under the terms of subsection ( c). The Certificate of Transfer will be issued only after one of the following conditions has been met:

a. 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;

b. 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:

1. 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 twelve (12) months from the date the plans have been submitted;

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)

The Planning Director, or their designee will prepare the Certificate of Transfer for the unused development rights for historic resources so classified as automatically eligible as established by Section 23-6(1) or after the resource has been determined eligible under the terms of subsection (c). The Certificate of Transfer may only be issued following the applicant's fulfillment of the requirements contained in subsections (9) (1) and (2), and following the filing of restrictive covenant with the city, which covenant shall provide:

a. That the eligible historic resource will be maintained to a standard consistent with the Building Departments' standards for "Forty (40) year recertification";

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

c. That the City of Miami 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.

(11) Restrictions (Receiving Property)

a. The TDRs may only be used areas of the city so designated as receiving sites, where an increase in intensity from the underlying zoning district is allowed, specifically for the use of the historic TDRs.

**Sec. 23-7. Waivers for Locally Designated Historic Resources.**

In an effort to promote and encourage the preservation and adaptive use of locally designated resources, so designated pursuant to the provisions of Section 23-4 of this article the HEPB may grant certain waivers to the Zoning Code provided that it will result in the preservation of a locally designated property.

1. Historic Preservation Waivers.

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

a. Waivers concerning existing buildings

1. Any building that is individually locally designated or is classified as a contributing building within a local historic district, 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 pertaining to minimum lot size, setbacks, minimum lot width, building footprint, green space, off-street parking or loading requirements.

2. In cases where the configuration of a locally designated property, or a contributing property within a locally designated historic district precludes reasonable and appropriate use of the

property within the underlying zoning district a waiver of up to twenty (20) percent from the underlying requirements for setbacks building footprint, and green space may be authorized the board.

3. In cases where the size or configuration of a locally designated property, or a contributing property within a locally designated historic district 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% of the number of parking spaces that would ordinarily be required for a new structure of equivalent use and floor area. Such a reduction will be granted only when it can be demonstrated that:

(a) Granting the modification 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.

(b) Granting the modification would promote the preservation of the historic resource or historic district while reducing nonconformities.

(c) Granting the modification would help minimize or mitigate any potential adverse effect of a specific proposal whose implementation promotes the preservation of the historic site or historic district; and that

par (d) it can be demonstrated that special circumstances exist such as adjacencies or shared parking that will practically alleviate concerns for off-street parking.

(e) 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.

#### 4. Signage

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 qualifies as "historic", the HEPB shall consider whether it is:

(a) Associated with historic figures, events or places;

(b) Significant as evidence of the history of the product, business, or service advertised;

(c) Significant as reflecting the historic of the building or the development of the historic district. (A sign may be the only evidence of a building's historic use);

(d) Characteristic of a specific historic period, such as gold leaf on glass, neon, or stainless steel lettering;

(e) 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 are 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);

(f) Outstanding examples of the sign maker's art. Whether because of their excellent craftsmanship, use of materials or design;

(g) Recognized as a local landmark, because of its prominence and popular recognition as a focal point in the community;

(h) 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 upon 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. Waivers concerning additions

1. 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 23-7.

c. Procedures for granting Waivers.

An application for a special certificate of appropriateness shall be submitted pursuant to the provisions of Section 23-8 of this chapter. In addition, the application shall contain a written statement justifying the requested exception or waiver and provide evidence that the exception or waiver is necessary to assure the continued preservation of the designated historic structure.

d. Notice and hearings, generally.

The board shall notice the public hearing at which the waiver is requested, following the same procedures as is required for a Special Certificate of Appropriateness.

e. Decision of the board.

The board shall make findings based upon the standards set forth in Section 23-8 of the Miami City Code, as amended, and shall take one (1) of the following actions:

1. Issue the special certificate of appropriateness for the waiver proposed by the applicant; or
2. Issue the special certificate of appropriateness with specific modifications and conditions; or
3. Deny the special certificate of appropriateness.

f. Standards.

In addition to the guidelines and standards for issuing certificates of appropriateness as set forth in Section 23-8 of the Miami City Code, as amended, the Board shall determine that the following standards have been met before reaching a decision to grant a special certificate of appropriateness:

1. The waiver shall be the minimum necessary to assure the continued preservation of the historic structure; and
2. The waiver shall be in harmony with the general intent and purpose of this chapter.

g. Conditions and safeguards.

In granting any waiver, the board may prescribe appropriate conditions and safeguards necessary to protect and further the interest of the area and abutting properties, including, but not limited to, landscape materials, walls, and fences as required buffering; modifications of the orientation of any

openings; modification of site arrangements; and control of manner or hours of operation.

h. Requirements for substantial rehabilitation.

As a condition of granting a waiver, as determined by the board at the time of granting the special certificate of appropriateness, the board may require that the structure(s) for which the waiver is requested be substantially rehabilitated in accordance with the Florida Building Code, the National Fire Prevention Code, the U.S. Secretary of the Interior's "Standards for Rehabilitation," and any other applicable codes and regulations.

i. Requirements concerning time limitations.

Any certificate of appropriateness issued under this section shall be governed by the time limitations stipulated in Section 23-8(g).

**Sec. 23-5 ~~23-8~~. 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. A certificate of appropriateness shall also be required for waivers from the provisions of the 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 subsection 23-8(h) 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.*

(1) *Pre-application conference(s).* Before submitting an application for a certificate of appropriateness, an applicant is encouraged to confer with the preservation officer to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data. At the request of the applicant, the preservation officer, or any member of the board, an additional pre-application conference shall be held between the applicant and the board or its designated representative. The purpose of such conference shall be to further discuss and clarify preservation objectives and design guidelines in cases that may not conform to established objectives and guidelines. In no case, however, shall any statement or representation made prior to the official application review be binding on the board, the city commission, or any city department.

(2) *Application for certificate of appropriateness.* The applicant shall submit to the preservation officer an application together with supporting exhibits, ~~and~~ other materials, and any applicable fees as required by the rules of procedure of the board. No application shall be deemed to be complete until all supporting materials required have been provided and any established fees paid.

(3) *Standard certificates of appropriateness.* Where the action proposed in an application is a minor improvement, as specified by the rules of procedure of the board, and is in accord with the guidelines for issuing certificates of appropriateness as set forth in subsection ~~23-5~~ 7(c), the preservation officer shall, within ten calendar days of receipt of the complete application, issue a standard certificate of appropriateness, with or without conditions, indicating in writing conformity with said guidelines. Following such approval, permits dependent upon it may be issued if otherwise lawful. An applicant may request that the application be initially classified as a special

certificate of appropriateness if they wish to have the matter heard by the HEPB.

(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; ~~or~~ 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 23-5 8(c); or when the applicant is requesting a waiver from the requirements of the zoning code the application shall be classified as a special certificate of appropriateness, and the following procedures shall govern. The applicant may also request that his application be classified as a special certificate of appropriateness.

a. *Public hearing.* When a complete application is received, the preservation officer shall place the application on the next regularly scheduled meeting of the board. The board shall hold a public hearing to review the application. All public hearings on certificates of appropriateness conducted by the board and hearings on appeals of board decisions to the city commission regarding certificates of appropriateness shall be noticed as follows:

1. The applicant shall be notified by mail at least ten calendar days prior to the hearing.
2. Any individual or organization requesting such notification and paying any established fees therefore shall be notified by mail at least ten calendar days prior to the hearing.
3. An advertisement shall be placed in a newspaper at least ten calendar days prior to the hearing.
4. Any additional notice deemed appropriate by the board.

b. *Decision of the board.* The decision of the board shall be based upon the guidelines set forth in subsection 23-58(c), as well as the general purpose and intent of this chapter and any specific design guidelines officially adopted for the particular historic site resource, historic district, 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;
2. 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 months in cases of demolition or relocation of a contributing structure or landscape feature, pursuant to the provision of subsections 23-5(c)(2), (3), and (4), or up to 45 calendar days for any work potentially affecting an archaeological site, archaeological zone, or archaeological conservation area, pursuant to the provisions of subsection 23-5(c)(5).
5. Issuance of a recommendation to the city commission for a certificate of appropriateness for any work that is included in an application for a major use special permit (MUSP), pursuant to article 17 of Ordinance No. 11000, the Zoning Ordinance of the City of Miami, as amended.
6. 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 their waiver(s) from the provisions of the zoning code and the reasons wherefore.

(5) Accelerated Certificate of Appropriateness. When an applicant is proposing physical changes to a resource that is simultaneously being considered for local historic designation, if the proposed changes are of a substantial nature, the 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 the resource appears to meet the criteria for local historic designation.

c. *Time limitations.* If no action is taken upon an application by the board within 60 calendar days, excluding those days within the month of August, from the receipt of a complete application, such application shall be deemed to have been approved, and the preservation officer shall authorize issuance of any permit dependent upon such certification, if otherwise lawful, recording as authorization the provisions of this section. This time limit may be waived at any time by mutual consent of the applicant and the board. However, should in the opinion of the preservation officer or the historic and environmental preservation board such delays be attributable to the applicant and/or their agent, this time limitation shall not apply, nor shall the application be considered approved.

d. *Records.* Written copies of all decisions and certificates of appropriateness shall be filed with the planning ~~and zoning~~ department.

e. *Appeals.* The applicant, the planning ~~and zoning~~ department, or any aggrieved party may appeal to the city commission any decision of the board on matters relating to certificates of appropriateness 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. The 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 \$500.00. The city commission shall hear and consider all facts material to the appeal and render a decision as promptly as possible. The appeal shall be a *de novo* hearing and the city commission may consider new evidence or materials in accordance with §2004 of the Zoning Ordinance. The City Commission may affirm, modify, or reverse the board's decision. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered by the city. Appeals from decisions of the city commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.

f. *Changes in approved work.* Any change in work proposed subsequent to the issuance of a certificate of appropriateness shall be reviewed by the preservation officer. If the preservation officer finds that the proposed change does not materially affect the property's historic character or that the proposed change is in accord with approved guidelines, standards, and certificates of appropriateness, the officer may issue a supplementary standard certificate of appropriateness for such change. If the proposed change is not in accord with guidelines, standards, or certificates of appropriateness previously approved by the board, a new application for a special certificate of appropriateness shall be required.

g. *Conditional uses.* The board shall issue special certificates of appropriateness for conditional uses, pursuant to the provisions of Article 7 of Ordinance No. 11000, the Zoning Ordinance of the City of Miami, as amended.

(g) Expiration of certificates of appropriateness. Any certificate of appropriateness issued pursuant to the provisions of this section shall expire 12 months from the date of issuance, unless the

authorized work is commenced within this time period, or a building permit has been obtained. The preservation officer may grant an extension of time not to exceed ~~six months~~ twelve months upon written request by the applicant, unless the board's guidelines as they may relate to the authorized work have been amended.

~~(e)~~(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 23-8(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. Except where special standards and guidelines have been specified in the designation of a particular historic ~~site~~ resource or historic district, or where the board has subsequently adopted additional standards and guidelines for a particular designated historic ~~site~~ resource or historic district, 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."

(2) Applications for Exceptions. An application for an exception will be made on forms provided by the Planning Department, and will be processed and noticed in accordance with the procedures for a Special Certificate of Appropriateness.

(3) Applications for a Waiver. An application for a waiver(s) from the provisions of the zoning code will be made on forms provided by the Planning Department, and will be processed and noticed in accordance with the procedures for a Special Certificate of Appropriateness.

~~(2)~~(4) *Demolition of existing structures.*

a. Decisions of the board to issue, deny or issue with a deferred effective date applications for certificates of appropriateness for demolition shall be based upon the following criteria:

1. The degree to which the structure contributes to the historic and/or architectural significance of the historic site or district;
2. Whether loss of the structure would adversely affect the historic and/or architectural integrity of the historic site or district;
3. Whether architectural plans have been presented to the board for the reuse of the property if the proposed demolition were to be carried out, and the appropriateness of said plans to the character of the historic site or district, if applicable;
4. Whether the structure poses an imminent threat to public health or safety;
5. Whether the applicant has demonstrated that retention of the structure would create an unreasonable or undue economic hardship;
6. Whether there is a compelling public interest requiring the demolition.

b. The owner shall permit access to the subject property for the purpose of inspections and/or

appraisals required by the board or preservation officer.

c. As a condition of issuing a certificate of appropriateness for demolition, the board may require, at the applicant's expense, salvage and preservation of significant building materials, architectural details and ornaments, fixtures, and the like for reuse in restoration of other historic properties. The board may also require at the applicant's expense the recording of the structure for archival purposes prior to demolition. The recording may include, but shall not be limited to, photographs and measured drawings.

d. As a condition of issuing a certificate of appropriateness for demolition, the board may require that no building permit be issued for the demolition of said structure until a building permit for the construction of a new building has been issued, if new construction is proposed.

~~(3)~~(5) *Relocation of existing structures.* Relocation of historic structures from their original location shall be discouraged; however, the board may grant a certificate of appropriateness if it finds that no reasonable alternative is available for preserving the structure on its original site and the proposed relocation site is compatible with the historic and architectural character of the structure. The board may issue a certificate with a delayed effective date of up to six months in order to explore alternatives to relocating the structure in question.

~~(4)~~(6) *Removal of landscape features.*

a. No certificate of ~~appropriateness~~ approval shall be granted for removal, relocation, concealment or effective destruction by damage of any contributing landscape features identified in the designation report unless one of the following conditions exists:

1. The landscape feature is located in the buildable area or yard area where a structure may be placed and unreasonably restricts the permitted use of the property; or
2. The landscape feature is inappropriate in a historic context or otherwise detracts from the character of the historic site or historic district; or
3. The landscape feature is diseased, injured, or in danger of falling; unreasonably interferes with utility service; creates unsafe vision clearance; or conflicts with other applicable laws and regulations.

b. As a condition of granting the certificate of appropriateness, the applicant may be required to relocate or replace identified landscape features.

~~(5)~~(7) *Ground disturbing activity in archaeological zones, archaeological sites, or archaeological conservation areas.*

a. No certificate of ~~appropriateness~~ to dig shall be issued for new construction, excavation, tree removal, or any other ground disturbing activity until the city's ~~archeologist~~ staff has reviewed the application, evaluated the scope and determined whether the matter should be brought to the board for its review. ~~and made his recommendation concerning the required scope of archeological work.~~ The staff or the board may require any or all of the following to be developed as an archaeological plan:

1. Scientific excavation and evaluation of the site at the applicant's expense by an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology (36 CFR Part 61).
2. An archaeological survey at the applicant's expense conducted by an

archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology (36 CFR Part 61) which contains an assessment of the significance of the archaeological site and an analysis of the impact of the proposed activity on the archaeological site approved by the board.

2. An archeological survey at the applicant's expense conducted by an archeologist approved by the board containing an assessment of the significance of the archeological site and an analysis of the impact of the proposed activity on the archeological site.

3. Proposal for mitigation measures.

4. Protection or preservation of all or part of the archaeological site for green space, if the site is of exceptional importance and such denial would not unreasonably restrict the primary use of the property.

b. The board may issue a certificate of ~~appropriateness~~ to dig with a delayed effective date of up to 45 calendar days to allow any necessary site excavation or assessment.

~~(6)~~(8) *Unreasonable or undue economic hardship.*

a. Where strict enforcement of the provisions of this section would result in an unreasonable or undue economic hardship to the applicant, the board shall have the power to vary or modify the provisions of this section, including adopted guidelines. The fact that compliance would result in some increase in costs shall not be considered unreasonable or undue economic hardship if the use of the property is still economically viable.

b. Any applicant wishing to assert unreasonable or undue hardship must submit as a part of the application for a certificate of appropriateness a written statement presenting the factual data establishing such economic hardship. The written statement presenting factual data shall be in the form of a sworn affidavit containing the following information:

1. The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;

2. The assessed value of the land and improvements thereon according to the three most recent assessments;

3. The amount of real estate taxes for the previous three years;

4. All appraisals obtained by the owner or applicant within the previous three years in connection with the potential or actual purchase, financing or ownership of the property;

5. All listings of the property for sale or rent within the previous three years, prices asked and offers received, if any;

6. For income producing property only, a profit and loss statement for the property containing the annual gross income for the previous three years; itemized expenses, including operating and maintenance costs, for the previous three years; annual cash flow for the previous three years; and proof that the owner has made reasonable efforts to obtain a reasonable rate of return on the owner's investment and labor;

7. Any consideration by the applicant as to uses or adaptive uses of the property;

c. In the event that any of the required information is not reasonably available to the applicant or cannot be obtained, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

d. Notwithstanding the submission of the above information, the board may require, at the applicant's expense, additional evidence, including, but not limited to, architectural, structural and/or financial evaluations or studies as are reasonably necessary in the opinion of the board to determine the economic feasibility of rehabilitation of the structure.

**Sec. 23-6 23-9. Administration, enforcement, violations, and penalties.**

(a) *Ordinary maintenance and repair.* Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance or repair of any structure when such maintenance or repair does not constitute an alteration, or to prevent the ordinary maintenance of landscape features.

(b) *Enforcement of maintenance and repair provisions.* When the board or preservation officer determines that any designated property is endangered by lack of maintenance and repair, or that any other property in visual proximity to a designated property lacks maintenance and repair to such an extent as to detract from the character of the designated property, the board or officer may request appropriate officials or agencies of the city to require correction of such deficiencies under authority of applicable laws and regulations.

(c) *Unsafe structures.* In the event the building official of the city determines that any designated property is unsafe pursuant to chapter 8.5 of the Code of Miami-Dade County, Florida, as amended, he shall immediately notify the board with copies of such findings. Where reasonably feasible within applicable laws and regulations, the building official shall endeavor to have the structure repaired rather than demolished and shall take into consideration any comments and recommendation of the board. The board may take appropriate actions to effect and accomplish preservation of such structure, including, but not limited to, negotiations with the owner and other interested parties, provided that such actions do not interfere with the procedures in chapter 8.5 of the Code of Miami-Dade County, Florida, as amended.

(d) *Emergency conditions.* For the purpose of remedying emergency conditions determined to be imminently dangerous to life, health, or property, nothing contained herein shall prevent any temporary construction, reconstruction, demolition, or other repairs to a designated property, pursuant to an order of a government agency or a court of competent jurisdiction, provide that only such work as is reasonably necessary to correct the emergency condition may be carried out. The owner of structure damage by fire or natural calamity may stabilize the structure immediately and rehabilitate it later under the provisions of this chapter.

(e) *Enforcement.* The building department and the code inspectors as defined in section 2-813 shall assist the board by making necessary inspections in connection with the enforcement of this chapter. The building department shall be responsible for promptly stopping any work attempted to be done without or contrary to any certificate of appropriateness required under this chapter; and shall further be responsible for ensuring that any work not in accordance with a certificate of appropriateness is voluntarily corrected to

comply with said certificate.

(f) *Violations and penalties.* Any person who carries out or causes to be carried out any work in violation of this chapter shall be required to restore the locally designated property either to its appearance prior to the violation or in accordance with a certificate of appropriateness approved by the board. The following procedures shall govern:

(1) *Referral to preservation board.* The building department and code inspectors as defined in section 2-813 shall refer all violations to the board, unless such violation is voluntarily corrected to comply with a previously issued certificate of appropriateness.

(2) *Preservation board public hearing.* The board shall conduct public hearing with notice as set forth in subsection ~~23-5()(a)~~ 23-7(4)(a).

(3) *Decision of preservation board.* The board shall make findings based upon the provisions of this section and the guidelines set forth in subsection ~~23-5(e)~~ (7) and shall take one of the following actions:

- a. Reaffirmation of a previously issued certificate of appropriateness;
- b. Issuance of an amended special certificate of appropriateness with specified modifications and conditions; or
- c. Issuance of a new special certificate of appropriateness with specified conditions.

The board may specify a reasonable limitation of time within which the work authorized by the certificate of appropriateness shall be commenced or completed, or both. Appeals of any decision of the board related to certificates of appropriateness shall follow the same procedures as set forth in subsection 23-5(b)(4)e.

(4) *Referral to code enforcement board.* If the work authorized by any certificate of appropriateness issued pursuant to subsection ~~23-6(f)(3)~~ 7 above is not commenced and/or completed within the time specified, or if a subsequent violation of a certificate of appropriateness issued pursuant to this section is found, the building department or code inspectors as defined in section 2-813 shall initiate enforcement proceedings before the code enforcement board pursuant to the provisions of section 2-814 of the Miami City Code. This remedy shall be in addition to and not in lieu of any criminal or civil prosecution and penalty that may be provided.

(g) *Conflicts.* Where there are conflicts between the requirements of this chapter and provisions of the zoning ordinance or other codes covering the same subject, the most restrictive requirements shall apply.

(h) *Application equally to private parties and public bodies.* The provisions of this chapter shall apply equally to plans, projects, or work executed or assisted by any private party, governmental body or agency, department, authority, or board of the city, county, or state.

\* \* \* \*\*

Section 3. Article 7 of Ordinance No. 11000, as amended, of the Zoning Ordinance of the City

of Miami, Florida, entitled "HP Historic Preservation Overlay Districts" is hereby amended in the following particulars: {1}

**ARTICLE 7**

**HP HISTORIC PRESERVATION OVERLAY DISTRICTS**

**Sec. 700. Intent.**

Chapter 23, Historic Preservation, of the Miami City Code has the intent of preserving and protecting the heritage of the City of Miami through the restoration, rehabilitation and adaptive use of Miami's historic and architectural resources. It is the intent of this article to further promote the adaptive use of historic sites buildings and buildings within historic districts by ~~relaxing certain otherwise applicable zoning regulations if the standards, procedures and conditions set forth in this article are met allowing certain uses, when it can be demonstrated that the new use will result in a significant preservation goal.~~

**Sec. 701. Application of district.**

No application for an HP overlay district shall be accepted unless the historic site, building, or contributing building within a historic district has been designated pursuant to chapter 23 of the Miami City Code. Furthermore, HP overlay districts shall be applied only to said designated historic sites, buildings, and contributing buildings within historic districts which shall require a conditional use ~~or deviation~~, as defined in section 704.1 below, to assure their preservation.

HP overlay districts may hereafter be established pursuant to the provisions of article 22, Amendments, except that all applications for amendments shall be submitted to the historic and environmental preservation board, as established pursuant to chapter 62 of the Miami City Code, for review and recommendation prior to any public hearing on such application by the planning advisory board or zoning board. Applications for amendments to existing HP overlay districts shall be processed likewise. Applications for HP overlay districts shall be exempt from the size limit requirement on the rezoning of property as established in section 2214.1.

**Sec. 702. Effect of district.**

HP overlay districts shall have the effect of modifying ~~requirements, regulations and procedures~~ the permitted uses applying in within an existing zoning districts indicated in the official zoning atlas, or zoning districts hereafter created and remaining after the HP overlay district is superimposed, to the extent provided herein. All ~~zoning requirements, regulations and procedures~~ permitted uses not specifically modified by the HP overlay shall remain in full force and effect.

**Sec. 703. Historic and environmental preservation board; preservation officer.**

The historic and environmental preservation board (hereinafter referred to as the "board") and the preservation officer as established pursuant to chapter 62 of the Miami City Code shall carry out the duties as assigned by this article.

**Sec. 704. Conditional uses ~~and deviations~~.**

Conditional uses ~~and deviations~~ subject to the applicable criteria in Section 704.3 and any

other applicable criteria specified in this ordinance, as amended.

*704.1. Types of conditional uses ~~and deviations permissible.~~*

*704.1.1. Conditional uses.* Professional offices, tourist and guest homes, museums, restaurants and private clubs or lodges may be permissible as conditional uses. Such uses shall be permissible only within existing structures either individually designated or that contribute to the historic character of the historic site ~~or~~ district, as identified in the designation report prepared pursuant to chapter 23 of the Code of the City of Miami; 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 of the Code of the City of Miami. For the purpose of this section, reconstruction shall be defined as the act or process of reproducing by new construction the exact form and detail of a vanished structure as it appeared at a specific period of time. Any use authorized pursuant to this section shall comply with all regulations applicable to the same or similar use in the most restrictive zoning classification permitting such use, to the extent such regulations have not been modified pursuant to this section.

~~*704.1.2. Deviations concerning historic structures.* The board may vary the provisions of article 11, Nonconformities, to the extent indicated herein. Any structure that contributes to the historic character of a historic site or historic district, as identified in the aforementioned designation report, shall be permitted to be repaired, restored, structurally altered, or reconstructed, notwithstanding any conflicts with provisions of the underlying zoning district pertaining to minimum lot size, setbacks, minimum lot width, maximum height, building footprint, green space, offstreet parking or loading requirements. New structures or additions to existing structures may also be authorized by the board when necessary to assure the preservation of historic sites and historic districts. Historic signs shall be permitted to remain and to be repaired, restored, structurally altered, or reconstructed.~~

~~*704.1.3. Deviations concerning additions and new buildings.* In cases where the configuration of an HP district precludes reasonable and appropriate use of the property within the underlying zoning district envelope, a deviation of up to twenty (20) percent from the underlying zoning district requirements for maximum height, building footprint, and green space may be authorized by the board.~~

~~*704.1.4. Deviations concerning offstreet parking.* In cases where the size or configuration of an HP district is such that compliance with offstreet parking requirements would destroy the historic character of the property, the board may authorize a reduction of up to one third ( 1/3) of the number of parking spaces that would ordinarily be required for a new structure of equivalent use and floor area. For private clubs or lodges, up to seventy five (75) percent of the required off street parking spaces may be provided by valet parking, provided that an attendant shall remain on duty during business hours and that all valet activities shall be conducted on private property.~~

*704.2. Procedures for granting conditional uses ~~and deviations.~~*

*704.2.1. Application for a special certificate of appropriateness.* An application for a special certificate of appropriateness shall be submitted pursuant to the provisions of chapter 23 of the Miami City Code. In addition, the application shall contain a written statement justifying the requested conditional use ~~or deviation~~ and ~~providing~~ provide evidence that the conditional use ~~or deviation~~ is necessary to assure the continued preservation of the individually designated historic structure or contributing structure within a historic district.

*704.2.2. Notice and hearings, generally.* The board shall hold a public hearing with notice as set forth

in chapter 62 of the Miami City Code.

**704.2.3. Decision of the board.** The board shall make findings based upon the standards set forth in section 704.3 and shall take one (1) of the following actions:

1. Issuance of a special certificate of appropriateness for the conditional use ~~or deviation~~ proposed by the applicant; or
2. Issuance of a special certificate of appropriateness with specific modifications and conditions; or
3. Denial of a special certificate of appropriateness.

**704.3. Standards.**

In addition to guidelines and standards for issuing certificates of appropriateness as set forth in section 23(c) of the Miami City Code, the Board shall determine that the following standards have been met before reaching a decision to grant a special certificate of appropriateness:

1. The conditional use ~~or deviation~~ shall be the minimum necessary to assure the continued preservation of the historic structure; and
2. The conditional use ~~or deviation~~ shall be in harmony with the general intent and purpose of this Article and the applicable criteria as specified in Section 1305; and
3. For restaurants, private clubs, or lodges the minimum lot size shall be fifteen thousand (15,000) square feet. For private clubs and restaurants, hours of operation shall not extend beyond eleven o'clock (11:00) p.m.
4. For restaurants, the property shall be adjacent to a major boulevard and a parking plan shall be required to be approved by the City Commission prior to the issuance of the approval for use.

**704.4. Conditions and safeguards.**

**704.4.1. The board may impose conditions and safeguards.** In granting any conditional use ~~or deviation~~, the board may prescribe appropriate conditions and safeguards necessary to protect and further the interest of the area and abutting properties, including, but not limited to, landscape materials, walls, and fences as required buffering; modifications of the orientation of any openings; modification of site arrangements; and control of manner or hours of operation.

**704.4.2. Requirements for substantial rehabilitation.** As a condition of granting a conditional use ~~or substantial deviation~~, as determined by the board at the time of granting the special certificate of appropriateness, the board may require that the structure(s) for which the conditional use ~~or deviation~~ is ~~(are)~~ requested be substantially rehabilitated in accordance with the Florida Building Code, the National Fire Prevention Code, the U.S. Secretary of the Interior's "Standards for Rehabilitation," and any other applicable codes and regulations.

**704.4.3. Requirements concerning time limitations.** In granting a special certificate of appropriateness, the board shall, as a condition or safeguard, specify a reasonable limitation of time within which an application for a building permit, if applicable, shall be made. In addition, the board may prescribe a reasonable limitation of time within which rehabilitation shall be commenced or completed, or both. Failure to meet such time limitations shall result in the cancellation of the special certificate of appropriateness unless, on application to the board and on due cause shown, the board shall extend the time limitation originally set. Such application shall be filed with the preservation officer not less than thirty (30) calendar days prior to the date of expiration of the certificate of appropriateness. If the application for an extension of time is denied by the board, it shall state in writing its reasons for the action of denial. Extensions in six-month increments may be granted, but in no case shall more than two (2) extensions be granted for a specific certificate of appropriateness.

**Sec. 705. Appeals.**

Appeals of any decision of the board shall follow the same procedures as set forth in chapter 23 of the Miami City Code.

\* \* \* \*\*

Section 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made apart of the Code of the City of Miami, Florida, as amended which provisions may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word to accomplish such intention.

Section 6. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.{2}

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
JULIE O. BRU  
CITY ATTORNEY

**Footnotes:**

{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.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten 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.