

COA Scrivener's Error

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, ENTITLED "HISTORIC PRESERVATION," DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 118-503 THEREOF, ENTITLED "SCOPE, POLICIES, AND EXEMPTIONS," TO CORRECT A SCRIVENER'S ERROR; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on October 19, 2005, the Mayor and City Commission of the City of Miami Beach adopted Ordinance No. 2005-3495, amending Section 118-503 of the City Code to expand and enhance the procedure of the Historic Preservation Board regarding after-the-fact Certificates of Appropriateness; and

WHEREAS, Ordinance No. 2005-3495 created subsection 118-503(b) to modify the requirements for an after-the-fact certificate of appropriateness; and

WHEREAS, additional edits were made after First Reading, as denoted by double-underline additions and double-strikethrough deletions throughout Ordinance No. 2005-3495, but, inadvertently, paragraph references to subsection 118-503(c), governing exemptions, were not updated and a few intended words were omitted; and

WHEREAS, a correction to the scrivener's error is required for uniformity and consistency throughout Section 118-503; and

WHEREAS, no substantive change to the Ordinance is intended.

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

SECTION 1. That Section 118-503, entitled "Scope, policies, and exemptions," of Article X, of Chapter 118, of the City Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

* * *

ARTICLE X. HISTORIC PRESERVATION

DIVISION 1. – GENERALLY

* * *

Sec. 118-503. Scope, policies and exemptions.

(a) *Scope.* Unless expressly exempted by subsection ~~(b)~~ (c) of this section, no building permits shall be issued for new construction, demolition, alteration, rehabilitation, signage or any other physical modification of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, nor shall any construction, demolition, alteration, rehabilitation, signage or any other exterior or public interior physical modification, whether temporary or permanent, without a permit, be undertaken, without the prior issuance of a certificate of appropriateness or certificate to dig by the historic preservation board, or the planning director or his designee, in accordance with the procedures specified in this section. For purposes of this article, "alteration" or "modification" shall be defined as any change affecting the external appearance and internal structural system including columns, beams, load bearing walls and floor plates and roof plates of a structure or other features of the site including, but not limited to, landscaping and relationship to other structures, by additions, reconstruction, remodeling, or maintenance involving a change in color, form, texture, signage or materials, or any such changes in the appearance of public interior spaces. The foregoing shall exclude the placement of objects in or on the exterior or public interior of a structure or site, not materially affecting its appearance or architectural integrity.

(b) *Policies.*

(1) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in subsection ~~(b)~~ (c) of this section should take place prior to historic preservation board review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order. No "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced, and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.

(2) *Replacement of existing structures.* The policy of the City of Miami Beach shall be a presumption that a contributing building demolished without obtaining a certificate of appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the floor area ratio (FAR) of the demolished structure, and not to exceed the maximum FAR and height permitted under the City Code, with no additional square footage added. This presumption shall be applicable in the event a building permit for new construction or for repair or rehabilitation is issued, and demolition occurs for any reason, including, but not limited to, an order of the building official or the county unsafe structures board. This presumption shall also be applicable

to any request for an "after-the-fact" certificate of appropriateness. This presumption may be rebutted, and the historic preservation board may allow for the addition of more square footage, where appropriate, not to exceed the maximum permitted under the City Code, if it is established to the satisfaction of the historic preservation board that the following criteria have been satisfied:

- a. The proposed new structure is consistent with the context and character of the immediate area; and
- b. The property owner made a reasonable effort to regularly inspect and maintain the structure free of structural deficiencies and in compliance with the minimum maintenance standards of this Code.

(3) *Replication of demolished contributing structures.* The historic preservation board shall determine, on a case-by-case basis, whether the replication of an original, contributing, structure is warranted. For purposes of this subsection, replication shall be defined as the physical reconstruction, including all original dimensions in the original location, of a structure in totality, inclusive of the reproduction of primary facade dimensions and public area dimensions with appropriate historic materials whenever possible, original walls, window and door openings, exterior features and finishes, floor slab, floor plates, roofs and public interior spaces. The historic preservation board shall have full discretion as to the exact level of demolition and reconstruction required. If a building to be reconstructed is nonconforming, any such reconstruction shall comply with all of the requirements of chapter 118, article IX, of these land development regulations.

(c) *Exemptions.* The following permits are exempt from the regulations of ~~this section~~ subsection (a):

- (1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment not located on exteriors or within public interior spaces, and not visible from the public right-of-way.
- (2) Any permit necessary for compliance with a lawful order of the building official, county unsafe structures board, fire marshal, or public works director when issuance of such permit on an immediate basis is necessary for the public health or safety or to prevent injury to life, limb or property. In the event that compliance includes full or partial demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district an emergency meeting of the historic preservation board shall be called prior to the demolition being authorized, unless the work is of an emergency nature and must be done before a meeting could be convened. The historic preservation board may offer alternative suggestions regarding the need for manner and scope of demolition; these suggestions shall be taken into consideration by the official issuing the final determination regarding demolition. However, the final determination regarding demolition shall be made by the official issuing the order. In the event that the historic preservation board does not hold the meeting prior to the scheduled demolition, the demolition may take place as scheduled.
- (3) Any permit issued for an existing structure in a designated historic district which has been specifically excluded from the district.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.


PASSED and **ADOPTED** this ____ day of _____, 2022.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

 3-29-22

City Attorney Date

First Reading: April 6, 2022
Second Reading: May 4, 2022

NK

Underline denotes additions
Strikethrough denotes deletions

Verified By: _____
Thomas R. Mooney, AICP
Planning Director