

Demolition by Neglect – Replication Requirements

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, “ADMINISTRATION AND REVIEW PROCEDURES,” ARTICLE X, “HISTORIC PRESERVATION,” DIVISION 1, “GENERALLY,” BY AMENDING SECTION 118-503 THEREOF, ENTITLED “SCOPE, POLICIES AND EXEMPTIONS,” TO AMEND THE REGULATIONS APPLICABLE TO CONTRIBUTING BUILDINGS THAT ARE DEMOLISHED WITHOUT A CERTIFICATE OF APPROPRIATENESS; AND BY AMENDING SECTION 118-564 THEREOF, ENTITLED “DECISIONS ON CERTIFICATE OF APPROPRIATENESS,” TO AMEND THE CERTIFICATE OF APPROPRIATENESS REVIEW CRITERIA TO INCLUDE THE SECRETARY OF INTERIOR’S STANDARDS FOR RECONSTRUCTION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the demolition of contributing structures without obtaining a Certificate of Appropriateness from the Historic Preservation Board threatens the urban fabric, character, and integrity of the City’s historic districts; and

WHEREAS, City Code Section 118-503(b)(2) currently provides that “[t]he policy of the City of Miami Beach is 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 maximum FAR and height permitted under the City Code, with no additional square footage added”; and

WHEREAS, this Ordinance strengthens the current Code to provide that, when a contributing structure is demolished without a Certificate of Appropriateness, the presumption is that the building shall be replicated; and

WHEREAS, the Historic Preservation Board (“HPB”) has the authority to determine, on a case-by-case basis, whether the replication of an original, historic structure is warranted; and

WHEREAS, this Ordinance codifies the U.S. Secretary of Interior’s Standards for Reconstruction, to provide objective criteria for the HPB to determine when the replication of a contributing structure should be required.

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

SECTION 1. Chapter 118, “Administration and Review Procedures,” Article X, “Historic Preservation,” Division 1, “Generally,” 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.

* * *

(b) *Policies.*

(1) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in subsection (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) *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. The policy of the City of Miami Beach shall be a presumption that a contributing building that is demolished without obtaining a certificate of appropriateness from the historic preservation board, shall be replicated.

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.

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 a new design in accordance with subsection (b)(3) below, if it is established to the satisfaction of the historic preservation board that any of the following criteria are satisfied:

- a. a full replication or contemporary depiction is not required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site);
- b. other properties with the same associative value have survived; or
- c. sufficient historical documentation does not exist to ensure an accurate reproduction.

~~(2) (3) *Replacement of existing structures.* In the event the historic preservation board does not require replication as outlined in subsection (b)(2), The 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 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.~~

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Sec. 118-564. Decisions on certificate of appropriateness.

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(a) A decision on an application for a certificate of appropriateness shall be based upon the following:

(1) Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable compliance with the following:

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as ~~revised~~ may be amended from time to time; and
- b. The Secretary of Interior's Standards for Reconstruction as may be amended from time to time; and
- b. c. Other guidelines/policies/plans adopted or approved by resolution or ordinance by the city commission.

SECTION 2. Repealer.

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

SECTION 3. 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, as amended. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. Severability.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2022.

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



City Attorney NK 6-2-22
Date

First Reading: June 22, 2022
Second Reading: July 20, 2022

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