

**MIAMI CITY CODE
CHAPTER 23**

HISTORIC PRESERVATION

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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 archeological resources. This chapter is further intended to:

- (1) Effect and accomplish the protection, enhancement, perpetuation, and use of structures, landscape features, archeological and paleontological resources, areas, neighborhoods, and scenic vistas which represent distinctive elements of the city's historic, cultural, archeological, paleontological, 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, historic districts, and archeological 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, archeological, paleontological, aesthetic, and architectural heritage.

- (2) Assure that alterations and new construction within designated historic sites, historic districts, and archeological 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 of Miami expressly reserves and retains jurisdiction over archeological zones and sites within the city.

Sec. 23-2. Definitions.

The following definitions shall apply only to this chapter:

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 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 necessary, at the time of its filing and all required fees are paid.

Archeological 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."

Archeological site. A single specific location which has yielded or is likely to yield information on local history, prehistory, or paleontology. Archeological sites may be found within archeological zones, historic sites, or historic districts.

Archeological 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.

Certificate of appropriateness. A written document, issued pursuant to this chapter, permitting specified alterations, demolitions, ground disturbing activity, or other work.

Contributing structure/landscape feature. A structure or landscape feature 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.

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

Designated property; designated historic site; designated historic district; designated archeological zone. A historic site, historic district, or archeological 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.

Ground disturbing activity. Any excavation, filling, digging, removal of trees, or any other activity that may alter or reveal an interred archeological or paleontological site.

Historic and environmental preservation atlas. The Official Historic and Environmental Preservation Atlas of the City of Miami, Florida, as amended, which shows all designated historic sites, historic districts, and archeological zones.

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 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.

Interim protection measure. The interim period of time needed to protect a property 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 archeological zone.

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

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.

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.

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.

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 Code, as amended, shall carry out the duties as assigned by this chapter.

Sec. 23-4. Designation of historic sites, historic districts, and archeological zones.

(a) *Criteria for designation.* Properties may be designated as historic sites, historic districts, or archeological zones only if they have significance in the historical, cultural, archeological, 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) *Procedures for designation.* Properties which meet the criteria set forth in section 23-4(a) may be designated as historic sites, historic districts, and archeological 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 section 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, if any, which is the subject of said proposal for designation shall be notified by mail of the board's intent to consider the preliminary evaluation of the property.
 - b. *Interim protection measures.* From the date said notice of the preliminary evaluation is provided, 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 section 23-4(b)(1); or
 2. The board approves or denies the designation in accordance with section 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 23-5. The preservation officer 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 section 23-6(f).
- (2) *Preparation of designation report.* For every proposed historic site, historic district, and archeological 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 archeological significance of the proposed historic site, historic district, or archeological 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 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. Archeological 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 customarily 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, historic district, or archeological zone meets the criteria set forth in section 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 section 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 30 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 section 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.
 - 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 archeological 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) *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 section 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 shall remain in effect during the entire appeal process, unless stayed by a court of competent jurisdiction.
 - (6) *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.
- (c) *Effect of designation.* Upon designation, and thereafter, the provisions of section 23-5 shall apply.

Sec. 23-5. 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 be required for any ground disturbing activity within a designated archeological site or archeological zone or within an archeological conservation area. All certificates of appropriateness shall be subject to the applicable criteria in section 23-5(c) 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) *Preapplication 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 preapplication 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 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 section 23-5(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.

- (4) *Special certificates of appropriateness.* Where the action proposed in an application involves a major 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 section 23-5(c), 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 section 23-5(c), as well as the general purpose and intent of this chapter and any specific design guidelines officially adopted for the particular historic site, historic district, or archeological 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 sections 23-5(c)(2), (3), and (4), or up to 45 calendar days for any work potentially affecting an archeological site, archeological zone, or archeological conservation area, pursuant to the provisions of section 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.
- 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.
 - 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 promptly. 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 and deviations.* The board shall issue special certificates of appropriateness for conditional uses and deviations, pursuant to the provisions of article 7 of Ordinance No. 11000, the zoning ordinance of the city of Miami, as amended.
- (5) *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 upon written request by the applicant, unless the board's guidelines as they may relate to the authorized work have been amended.
- (c) *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 section 23-5(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 or historic district, or where the board has subsequently adopted additional standards and guidelines for a particular designated historic site 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) *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) *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) *Removal of landscape features.*

- a. No certificate of appropriateness 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) *Ground disturbing activity in archeological zones, archeological sites, or archeological conservation areas.*

- a. No certificate of appropriateness shall be issued for new construction, excavation, tree removal, or any other ground disturbing activity until the city's archeologist has reviewed the application and made his recommendation concerning the required scope of archeological work. The board may require any or all of the following:
 1. Scientific excavation and evaluation of the site at the applicant's expense by an archeologist 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 archeological 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 with a delayed effective date of up to 45 calendar days to allow any necessary site excavation or assessment.

(6) *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. 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, provided that only such work as is reasonably necessary to correct the emergency condition may be carried out. The owner of a structure damaged 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 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 a public hearing with notice as set forth in section 23-5(b)(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 section 23-5(c) 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 section 23-5(b)(4)e.

- (4) *Referral to code enforcement board.* If the work authorized by any certificate of appropriateness issued pursuant to section 23-6(f)(3) 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.