

ORDINANCE NO: 286

AN ORDINANCE OF THE TOWN COUNCIL, THE TOWN OF MIAMI, ARIZONA, AMENDING THE TOWN CODE BY ADDING CHAPTER 17.72, HEREAFTER KNOWN AS THE TOWN OF MIAMI HISTORIC PRESERVATION DISTRICT AND ESTABLISHING THE OFFICE OF HISTORIC PRESERVATION OFFICER AND ESTABLISHING AN HISTORIC PRESERVATION COMMISSION. THE PRESERVATION OVERLAY DISTRICT IS INTENDED TO PROTECT AND ENHANCE THE CULTURAL, HISTORICAL, SOCIAL AND ARCHEOLOGICAL HERITAGE OF THE TOWN OF MIAMI. IT IS NOT INTENDED THAT THE DESIGNATION OF A SITE OR DISTRICT AS HISTORIC SHOULD MODIFY USES PERMITTED IN EXISTING ZONES, BUT RATHER THAT THE DESIGNATION OF AN HISTORIC SITE OR AN HISTORIC DISTRICT BE SUPERIMPOSED OVER EXISTING ZONES TO ENCOURAGE THE RETENTION OF EARLY STRUCTURES AND OBJECTS IN ACTIVE USE, AND IN SUBSTANTIALLY THEIR HISTORIC APPEARANCE, SETTING AND PLACEMENT. IT IS INTENDED THAT THE RENOVATION OF AN HISTORIC SITE SHALL PRESERVE ITS DISTINGUISHING HISTORIC QUALITIES OR CHARACTER, IN THAT NEWER STRUCTURES ERECTED WITHIN AN HISTORIC DISTRICT, OR THE RENOVATION OF AN EXISTING STRUCTURE WITHIN AN HISTORIC DISTRICT, SHALL HARMONIZE WITH THE GENERAL CHARACTER OR AMBIENCE OF EXISTING STRUCTURES IN THE DISTRICT, IN ORDER TO PRESERVE THE ARCHITECTURAL HERITAGE OF THE DISTRICT, TO PROMOTE THE HISTORICAL SIGNIFICANCE OF THE SITE OR DISTRICT, AMONG RESIDENTS AND VISITORS TO THE COMMUNITY.

BE IT ORDAINED By the Mayor and Common Council of the Town of Miami, Arizona, as follows:

1. That Chapter 17.72 be added to the Zoning Code as follows:

Section 17.72.010 - Miami Historical District

A. There is hereby established a Miami Historical District, encompassing the same boundaries as set forth in the 1997 Resource Survey completed for the State Historic Preservation Office by Mr. Mark E. Pry, consulting historian. The Resource Survey is hereby adopted by reference.

B. The Historic District is a zoning overlay district, intended to protect and enhance the cultural, historical, social or archeological heritage of the Town of Miami. The Historic District encourages the retention of historic resources, by keeping them in active use in their original appearance, setting, and placement. More specifically, the purposes of these historic preservation regulations are to:

- i) Protect, enhance and preserve improvements in landscape features of historic resources, which represent distinctive elements of the Town's cultural, educational, social, economic, political, architectural and archeological history.
- ii) Safeguard the Town's historic, esthetic and cultural heritage, and encourage cultural heritage tourism, at appropriate historic and archeological sites;
- iii) Foster civic pride in the accomplishments of past, to promote public awareness of the rich heritage of the Town of Miami, throughout all periods of history and pre-history;
- iv) Retain and enhance historic resources and those properties which contribute to the character of an Historic Property District, and encourage their adaptation for current use;
- v) Assure that alterations of existing structures are compatible with the original structure and character of an historic resource;

- vi) Assure new construction and sub-division of lots in an Historic Property District are compatible with the character of the District;
- vii) Encourage the restoration of historic resources, and protect and enhance property values through the restoration, preservation and promotion of historic resources.

Section 17.72.010 - There is hereby established the office of Historic Preservation Officer.

The Historic Preservation Officer shall assist the Historic Preservation Commission in carrying out its duties and perform administrative duties as required by this Ordinance and by the Zoning Ordinance of the Town of Miami.

Section 17.72.020 - There is hereby established the Town of Miami Historic Preservation Commission consisting of five members.

A majority of the members must be residents or property owners of the Town of Miami. Members of the Historic Preservation Commission shall be appointed by and serve at the pleasure of the Mayor and Council. Commission terms shall be three year renewable terms. The terms will be staggered so that no more than two terms expire in the same year. Members must have a demonstrated interest, experience, or knowledge in at least one of the following; history, architectural history, architecture, historic interiors, historic architecture, planning archaeology, historic archaeology, real estate, historic preservation law, or other historic preservation related field.

Section 17.72.030 - Purpose, Powers and Duties:

A The Commission is charged with developing a comprehensive historic preservation program and assisting the Town in becoming a certified local government in Arizona.

B The Town of Miami Historic Preservation Commission shall;

- i) Establish a process for identifying the Town of Miami's historic, archeological and cultural resources;
- ii) Develop recommendations to provide a variety of support and incentives, including funding concepts, to enhance and maintain significant historic and archeological resources;
- iii) Review proposed alterations to historic and archeological resources;
- iv) Identify resources and districts of historic significance in the Town;
- v) Develop, maintain and from time to time amend formal plans for the preservation of resources of historic significance in the Town;
- vi) Establish standards, based on the Secretary of the Interior's Standards for Rehabilitation, necessary to preserve the historic character of resources designated as historic;
- vii) Establish and maintain the Town of Miami historic register, inventory historic properties, including archeological resources, and recommend to the Town Council designations for historic property districts;
- viii) Establish guidelines for evaluation of historic and archeological resources; provide public information and education on preservation;
- ix) Co-ordinate resources and provide technical assistance;

- x) Develop criteria and review procedure;
- xi) Promote the revitalization of the Town through preservation;
- xii) Confer with other city, town, county, regional, state and national historic preservation boards and commissions;
- xiii) Initiate programs for the restoration or rehabilitation of town owned historic buildings;
- xiv) Advocate and recommend programs for the restoration and rehabilitation of privately owned buildings and the preservation of archeological resources;
- xv) Discourage, and work with Town departments to prevent unwanted demolition of historic buildings and structures, and the destruction of archeological resources;
- xvi) Develop partnerships with such groups as the State Historic Preservation Office and provide an annual written report to the SHPO, which report shall be available to the public.
- xvii) Report its progress to the Town Council quarterly.

Section 17.72.040 - Procedures; Rules and Regulations.

The Historic Preservation Commission will;

- i) Establish rules, regulations and procedures that shall govern it's affairs, including provisions for the selection of a chairman and vice-chairman, and such other officers as may be deemed reasonably necessary for the effective and efficient operation of the Commission.
- ii) Meet at least four times each year and follow the provisions of the Arizona Open Meeting Act, including providing for public notice.
- iii) Establish a manner of adoption, amendment and repeal of the rules and regulations of the Commission..

Section 17.72.050 - Use, Regulations and Property Development Standards

- A Uses Permitted - Any use permitted in the underlying zone.
- B Uses Permitted by Conditional Use Permit - Any use permitted by conditional use permit in the underlying zone.
- C Property Development Standards - The development standards of the underlying zone shall apply in addition to the development requirements imposed by this chapter on historic property.

Section 17.72.060 - Procedures for designating property HP district.

An application to designate property as historic, is a request for overlay zoning on the property by applying the (HP) historic property zoning overlay district to the subject area. All re-zoning notice and public hearing requirements of state law and of the zoning ordinance of the Town of Miami must be filed for any historical property district re-zoning, in addition to the requirements of this section. The additional procedures for designating property

historic and for placement of the property on the Miami Historic Register are as follows:

A Upon receipt of the proper forms, and where required, payment for the application fee, the Historic Preservation Officer shall publish notice in a newspaper of general circulation in the Town, that an application has been filed, and will be considered by the Historic Preservation Commission, at a public hearing on a specified date, time and place, at which all persons shall be given the opportunity to be heard. This public hearing notice shall be published not less than fifteen days before the hearing, and shall describe the location of the property and the nature of the application to be considered.

B The Historic Preservation Officer or designee, shall conduct a preliminary study of the application and make a recommendation in a Historic Designation Report to the Historic Preservation Commission.

C The Historic Preservation Commission shall review the application and the historic designation report and recommend to the Town Council approval or denial of the application.

D After receiving the recommendation of the Historic Preservation Commission, the Town Council shall hold a public hearing. The Town shall notify the applicant(s) and owner(s) of record of the proposed designated property of the date, time and place of the public hearing, and shall provide notice of the public hearing, in accordance with the law applicable to a zoning map amendment.

E The Town Council shall approve with modifications, or deny the request for HP district designation and re-zoning, and any associated Historic Preservation Plan. In the event further proceedings are deemed necessary, the Town Council may remand the application to the Historic Preservation Commission. The property owners may file a legal protest in accordance with the provisions of Chapter 17.12 of the zoning ordinance of the Town of Miami. If the Town Council approves the HP district designation, the Historic Preservation Officer shall record the designation in the Town of Miami's Historic Register.

F Designation of an historic property district shall be followed by Town Council adoption of a supplemental zoning map, adding the subjects HP to the zoning classification of the property.

Section 17.72.070 - Historic Preservation Plan

Before or within a reasonable time, as determined by the Historic Preservation Officer, following Town Council approval of the HP district designation for an historic resource, the applicant and the Historic Preservation Officer shall prepare an historic preservation plan. Such a plan shall:

- i) Identify the geographical location of the HP district; and
 - ii) Specify the objectives concerning the development or preservation of building sites, objects, structures and landmarks within the HP district; and
 - iii) Formulate a program for public action, including the provision of public facilities and the regulation of private development and demolition necessary to realize these objectives; and
 - iv) Describe any plans for public access and visitation of the property, including any planned participation in a cultural, heritage tourism program; and
 - v) Set forth standards necessary to preserve and maintain the historical character of the historic resource. These standards shall include design guidelines that shall apply only to the exterior features of the historic resource.
- A) Each historic preservation plan shall include a general set of standards, reflecting the overall character of the

HP district, which shall be used by the Historic Preservation Commission and staff to review applications for the certificates required within the HP district.

B) When the HP district involves single family residences, the historic preservation plan may include a development agreement and/or a preservation easement.

C) Upon approval by the Town Council an historic preservation plan may include a specific set of design guidelines, that modify the standards set in the underlying zoning district. If any of these provisions are to be contained in design guidelines for HP district, the guidelines shall be approved according to the procedures for establishing HP districts, including the public hearing process before the Historic Preservation Commission and the Town Council. In the alternative, this specific set of guidelines may be made part of the ordinance establishing the district and placing overlay HP district zoning on the property.

D) The historic preservation plan must be approved by the Historic Preservation Commission, which may approve or modify the plan proposed by the applicant or the Historic Preservation Officer. The plan approved by the Commission is final, unless within twenty days of the date of the approval either the Town Council initiates review of the plan or the applicant appeals the historic preservation plan to the Town Council. The applicant shall file an appeal with the Town Clerk and shall include in the appeal request a brief statement of the grounds of the appeal and the relief requested.

E) The Town Council shall have the right and prerogative to initiate its own review of any historic preservation plan approved by the Historic Preservation Commission. Such a review must be initiated within twenty days of the Historic Preservation Commissions approval of the historic preservation plan. Notice of such council initiated review of any plan approved by the Historic Preservation Commission shall be given to the applicant and Historic Preservation Officer by the Town Clerk within ten days after the Council votes to initiate a review of the plan

F) The Town Clerk shall schedule the appeal for a Town Council agenda not more than forty or less than fifteen days following submittal of the appeal. The Town Council at its meeting shall uphold modified or remand for further consideration the plan approved by the Commission. The decision of the Town Council shall be final.

Section 17.72.080 - Alteration of Historic Resources Approvals Required

A) No building permanent site or other structure in an HP district shall be erected, demolished, moved, restored, rehabilitated, reconstructed, altered or changed in exterior appearance, nor shall any historic resource be altered, moved, remodeled, demolished, enlarged or extended contrary to the historic preservation plan for the HP district, or historic resource until plans for such activities have been submitted to and approved by the Historic Preservation Officer, or the Historic Preservation Commission, and the Town has issued a Certificate of No Effect, a Certificate of Appropriateness or a Certificate of Demolition Approval for the subject property. This requirement in addition to any other permit or approval required by law.

B) Failure to comply with a stipulation, standard or plan made a part of any of these approvals shall constitute a violation of this chapter. An approved plan shall be binding upon the owner/applicant and their successors and assignees. No permit shall be issued for any building or structure not in compliance with the plan, except a temporary facility shall be permitted in conjunction with construction. No structure or other element specified on the historic preservation plan shall be eliminated, or altered or provided in another manner, unless an amendment is approved in conjunction with the procedures for original approval.

C) Maintenance of the historic resource pursuant to the preservation plan is required. Ordinary maintenance or repair of any structure in the HP district that does not alter or modify the historic character of the structure will not require a Certificate of No Effect or a Certificate of Appropriateness.

Section 17.72.090 - Review Process on Applications Requiring a Certificate Of No Effect or Certificate of Appropriateness

- A) When a building permit or other permit is sought from the Town to alter, remodel, move, build or otherwise develop or landscape property or archeological sites in an HP district, issuance of the permit shall be deferred until after a Certificate of No Effect or a Certificate of Appropriateness is obtained from the Historic Preservation Commission.
- B) In the event work requiring a Certificate of Appropriateness or a Certificate of No Effect is being performed without such a certificate, the Historic Preservation Officer or other Town inspector shall contact the person performing the work and ask that all work cease. If work continues, the Historic Preservation Officer shall issue a Stop Work Order. The Town may seek an injunction to enforce a Stop Work Order.
- C) Historic Preservation Officer or designee shall issue a Certificate of No Effect within seven days after receipt of an application, if:
- i) It is determined the proposed work is minor and clearly within the adopted historic preservation plan; and
 - ii) Any modifications to the proposed work requested by the Historic Preservation Officer are agreed to by the owner/applicant; and
 - iii) The proposed work will not diminish, eliminate or adversely affect the historic character of the subject property or the HP district.
- D) A Certificate of No Effect shall expire and become null and void two years from the date of issuance, unless construction work is started within that time.
- E) If a Certificate of No Effect is not issued, a Certificate of Appropriateness from the Historic Preservation Commission shall be required.
- F) The review and decision on a Certificate of Appropriateness shall be conducted in the following manner:
- i) In all cases to be heard by the Historic Preservation Commission, the Historic Preservation Officer shall review the application for a Certificate of Appropriateness and shall schedule a public hearing before the Commission within thirty days of the filing of an application for a development permit. Notice of the application shall be posted on the property at least ten days before the date set for the public hearing before the Historic Preservation Commission. The Historic Preservation Commission shall review the application in light of the standards set forth below, and the evidence presented at the hearing, and shall either grant or deny the Certificate of Appropriateness, grant it with stipulations or issue a Certificate of No Effect.
 - ii) The standards for evaluating a Certificate of Appropriateness is consistent with the historic preservation plan for the resource.
 - iii) The owner or applicant may appeal the Historic Preservation Commission's decision in writing to the Town Council within twenty days of the Commission's decision.
 - iv) The Town Council shall have the right to initiate it's own review of any decision of the Historic Preservation Commission by a majority vote of the Town Council made within twenty days of the Commission's decision.

- v) The Town Clerk shall schedule the appeal for a Town Council agenda, not more than forty or less than fifteen days, following submittal of the appeal. Notice of the hearing shall be mailed by first class mail to the applicant and property owner, at least fifteen days prior to the hearing, and shall be posted on the property at least fifteen days prior to the hearing.
- vi) In the event the initial hearing on an appeal to the Town Council is not held within one hundred and twenty days of the date the permit application was filed, a Certificate of Appropriateness shall be deemed approved.
- vii) The Town Council may uphold, reverse or modify the decision of the Historic Preservation Commission.
- viii) The owner, applicant or any person aggrieved by the decision of the Town Council on a Certificate of No Effect, or a Certificate of Appropriateness, may appeal that decision by filing a Special Action in Superior Court within thirty days of that decision.
- ix) No change shall be made in the approved plans of the project after issuance of a Certificate of No Effect, or a Certificate of Appropriateness, without re-submitting the plans for the project to the Historic Preservation Officer, and approval of the change in the same manner as provided above.
- x) A Certificate of Appropriateness shall expire and become null and void two years from the date of issuance, unless construction work is started within that time.

Section 17.72.100 - Demolition of Historic Resources

A) No demolition permit shall be issued by the Town to demolish any part of a building, structure, object or landmark in an HP District, without a Certificate of Demolition. A Certificate of Demolition Approval shall be considered an imposed in this section:

1. Applications for a Certificate of Demolition Approval shall be filed with or referred to the Historic Preservation Officer. If the owner/applicant is using economic hardship to justify the demolition, an application for a Certificate of Economic Hardship shall be filed with the application for a Certificate of Demolition Approval. The Historic Preservation Commission may establish criteria, for certain types of structures or actions, authorizing the Historic Preservation Officer to staff approve an application for a Certificate of Demolition Approval and to waive a public hearing.
2. A Certificate of Demolition shall be issued if the Building Official has determined that the structure, building or object is an imminent hazard to public safety, and that repair would be impractical.
3. The Historic Preservation Officer shall review the application for a Certificate of Demolition Approval, and if applicable, a Certificate for Economic Hardship, and shall schedule a public hearing before the Historic Preservation Commission, within thirty days of the application. Notice of the hearing shall be posted on the property at least ten days before the hearing. Notice of the hearing shall be mailed by first class mail to the applicant at least ten days prior to the hearing.
4. The Historic Preservation Commission shall conduct a public hearing and shall make a determination whether a Certificate of Demolition Approval should be approved and a demolition permit should be issued. The criteria used to make this determination shall be;
 - (a) The structure, building, or object is of no historic or architectural value or significance, and

does not contribute to the historic value of the resource; or

- (b) Loss of the structure, building or object would not adversely affect the integrity of the HP District or the historic, architectural, or aesthetic relationship to adjacent properties, and its demolition is inconsequential to historic preservation needs of the area; or
- (c) The Commission has determined that a Certificate of Economic Hardship should be granted for the historic resource based upon the owner/applicant clearly demonstrating this hardship

5. A Certificate of Demolition Approval may be conditioned on stipulations that provide for rights of access to their property for the Town or its designee for purposes of documentation or for agreed upon removal of artifacts. Additionally, the Historic Preservation Commission may stipulate that the owner/applicant supplement the approved Historic Preservation Plan for the historic resource with additional documentation prior to approval of demolition.

B) The decision of the Historic Preservation Commission to grant or deny demolition approval shall be final, unless the owner/applicant appeals in writing within twenty days of the decision, or a majority of the Town Council initiates its own review of the decision within twenty days of their decision.

C) The Town Clerk shall schedule any such appeal for a Town Council agenda, not more than forty or less than fifteen days following the submittal of the appeal. Notice of the hearing shall be mailed by first class mail to the applicant and property owner at least fifteen days prior to the hearing, and shall be posted on the property at least fifteen days prior to the hearing. The Town Council shall review the application in light of economic hardship, the subject property's lack of historic or architectural value and significance, alone or as part of an HP District, and the evidence presented at the hearing. The Town Council shall either grant, grant with conditions, or deny the Certificate of Demolition Approval.

D) In the event that the initial hearing on an appeal to the Town Council is not held within one hundred and twenty days of the date the appeal was filed, the application for a Certificate of Demolition Approval shall be deemed approved.

E) If an application for Certificate of Demolition Approval of any historic resource is denied, no Certificate of Demolition Approval or demolition permit shall be issued within one year of the date on which Historic Preservation Commission denied the application.

F) Upon denial of a Certificate of Demolition from the Historic Preservation Commission, the Historic Preservation Officer shall contact the property owner to determine what available assistance might be feasible to place the property into productive use. If a feasible rehabilitation or use is not found for the property the Historic Preservation Officer and Historic Preservation Commission shall investigate with the property owner methods of private or public acquisition of the property.

G) For properties designated landmarks; the restraint of demolition is presumptively a minimum of two years from the date on which the application was denied by the Historic Preservation Commission. Review upon request by the owner may be made after one year. Procedures shall be as follows: one year after the denial of a demolition approval, if no feasible use or ownership is found for the landmark, the owner may request that the Historic Preservation Commission issue a waiver of all or a part of the balance of the restraint of demolition.

H) If a Certificate of Demolition Approval is granted on any basis other than that of an imminent hazard to public safety or economic hardship, or is denied and the restraint of demolition under the above provisions has expired, the Historic Preservation Officer shall not issue a Certificate of Demolition Approval and the Building Official shall not issue a demolition permit until a replacement/reuse plan for the property has been filed with the Historic Preservation Officer. The plan may be filed at any time following denial of the application for a Certificate of Demolition Approval

and shall be in compliance with existing zoning, the general plan, and any adopted neighborhood or character area plan, and the Historic Preservation plan applicable to the property. Vacant land or non-use shall not be considered responsive to this requirement.

- (i) The requirement for filing a Replacement/Reuse Plan shall be waived by the Historic Preservation Officer, if, following demolition, no historic feature will remain in the HP District and upon a finding that such a requirement is unnecessary to assure compatibility with other resources designated historic in the vicinity.
- (ii) The Historic Preservation Officer shall make a decision on a request for a waiver of the Replacement/Reuse Plan requirement within thirty days of receipt of the request..
- (iii) The owner/applicant may appeal the decision of the Historic Preservation Officer within twenty days of the action. The Historic Preservation Commission shall conduct a public hearing on the appeal. Notice of the hearing shall be posted on the property at least fifteen days prior to the hearing.
- (iv) The commission's decision shall be final unless appealed by the owner/applicant in writing within twenty days following the hearing. If a waiver is approved, the Commission shall, upon demolition or removal of the structure, building, or object, initiate an application to remove the HP District designation from the property.

I) Any new development on the property shall be in conformance with the replacement/reuse Plan submitted in conjunction with the Certificate of Demolition Approval. Any changes from the plan shall require a Certificate of Appropriateness.

J) A Certificate of Demolition Approval shall expire and become null and void one year from the date of issuance unless demolition is started within that time.

Section 17.72.110 - Stay of demolition pending, consideration of application for designation.

A) No demolition permit shall be issued by the Town for a resource that is located within an area of an application for HP District between such time as the application is filed with the Town and time action is taken on the application by the Town Council, unless a Certificate of Demolition Approval is issued by the Historic Preservation Commission or the Town Council.

B) The following procedures are hereby established for the review of proposed demolition of property which is part of or located in areas where an application for HP District designation is pending:

- (i) All owner/applicant requests for a demolition permit for property that is part of a pending application for HP District designation will be referred to the Historic Preservation Officer. The Historic Preservation Officer shall inform the owner/applicant that they must apply for a Certificate of Demolition Approval. The Historic Preservation Commission may establish criteria, for certain types of structures or actions, authorizing the Historic Preservation Officer to staff approve an application for a Certificate of Demolition Approval and to waive a public hearing.
- (ii) The Historic Preservation Officer shall review the application for a Certificate of Demolition Approval and shall schedule a public hearing of the Historic Preservation Commission within sixty days following the filing of the Certificate of Demolition Approval application. Notice of the hearing shall be posted on the property at least thirty days before the hearing. Notice of the hearing shall be mailed by first class mail to the applicant and property owner at least fifteen days prior to the hearing.

(iii) At the public hearing, the Commission shall issue a Certificate of Demolition Approval only if the owner/applicant demonstrates:

- (a) That the building, structure or addition is of minimal historic significance because of its location, condition, modifications, or other factors, and its demolition is inconsequential to the historic preservation needs of the area; or
- (b) That the denial of the Certificate of Demolition Approval and a demolition permit will result in an economic hardship to the property owner; or
- (c) That the building has been determined by the Building Official to be an imminent hazard to the public safety and that repairs would be impractical.

(iv) The Commission's decision shall be final unless appealed by the owner/applicant in writing within twenty days following the decision. The Town Council shall have the right to initiate its own review of a decision of the Historic Preservation Commission to grant or deny demolition approval by a majority vote of the Town Council made within twenty days following the decision. If appealed the Town Clerk shall schedule the appeal for a Town Council agenda, not more than forty or less than fifteen days following submittal of the appeal. Notice of the hearing shall be mailed by first class mail to the owner/applicant and at least fifteen days prior to the hearing and shall be posted on the property at least fifteen days prior to the hearing.

C) In the event a Certificate of Demolition Approval is denied, no permit for demolition shall be issued for one year from the date of the Historic Preservation Commission's initial hearing on the subject property, except if HP District zoning has not been placed on the property at the expiration of the one year from the date the application was filed, the Historic Preservation Officer shall issue a Certificate of Demolition approval for the subject property.

D) At the time of adoption of HP District Zoning, the temporary restraint of demolition and any stays of demolition in effect shall expire. Demolition approvals at that time shall be regulated by the section pertaining specifically to the process of demolition approval in an HP District.

E) A Certificate of Demolition Approval may be conditioned on stipulations that provide for rights of access to the property for the purposes of documentation or for agreed upon removal of artifacts. Additionally the Historic Preservation Officer may stipulate that the owner/applicant provide an approved Historic Designation Report of the structure including photographs and other relevant information to the Historic Preservation Commission prior to approval of demolition.

F) A Certificate of Demolition Approval shall expire and become null and void one year from the date of issuance unless demolition is started within that time.

Section 17.72.120 - Certificate of economic hardship.

A) Separate standards for obtaining a Certificate of Economic Hardship are established for investment or income producing and non-income producing properties:

- (i) Economic hardship for a non-income producing property shall be found when the property owner demonstrates that the property has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.
- (ii) Economic hardship for an income producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the resource if it retains its

historic features, buildings, or structures in either its present condition or if it is rehabilitated.

B) Owners seeking a Certificate of Economic Hardship must provide sufficient information, as determined by the Historic Preservation Officer, to support the application for the Certificate. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:

- (i) Willful or negligent acts by the owner;
- (ii) Purchase of the property for substantially more than market value;
- (iii) Failure to perform normal maintenance and repairs;
- (iv) Failure to diligently solicit and retain tenants;
- (v) Failure to provide normal tenant improvements.

C) The Commission may require an owner/applicant who has received a recommendation for a Certificate of Economic Hardship to complete the following prior to being granted a Certificate of Demolition Approval:

- (i) Documentation of the sites, buildings, structures, or objects which are intended to be demolished.
- (ii) Preparation of a salvage strategy for reuse of the building materials deemed valuable by the Historic Preservation Commission for other preservation or restoration activities.

D) A Certificate of Demolition Approval may be conditioned on stipulations that provide for rights of access to the property for the purposes of documentation or for agreed upon removal of artifacts.

E) A Certificate of Demolition approval shall expire and become null and void one year from the date of issuance unless demolition is started within that time.

Section 17.72.130 - Definitions:

- (1) ***Certificate of Appropriateness*** means that certificate issued by the Historic Preservation Commission allowing the applicant/owner to alter, remodel, move, build, or otherwise develop a landscape property or archeological in an HP District, if it is determined that the work is clearly within the adapted historic preservation plan, and will not diminish, eliminate or adversely effect the historic character of the subject property or the HP District.
- (2) ***Certificate of No Effect*** means that certificate issued by the Historic Preservation Officer or his designee, which permits an applicant/owner to alter, remodel, move, build, or otherwise develop a landscape property, provided that the proposed work is minor and clearly within the adapted historic preservation plan.
- (3) ***CLG*** means Certified Local Government
- (4) ***Commission*** means a historic preservation board, council or similar collegial body that is established by local legislation, composed of professionals and persons with a demonstrated interest, experience or knowledge in disciplines such as history, planning, archeology, architecture, architectural history, historic archeology or other fields related to historic preservation, that must perform the duties and responsibilities specified in this chapter.

- (5) **HPD** means Historic Preservation District.
- (6) **SHPO** means the State Historic Preservation Officer
- (7) **Historic Building** means a building that is determined to be eligible for or is listed on the Town's Register of Historic Places, or the national register of historic places, or is determined by the State Historic Preservation Officer to be eligible for, or is listed on the State Register of Historic Places.
- (8) **Historic Preservation District** means that portion within the Town limits which has been designated an historic district pursuant to this chapter.
- (9) **Historic Preservation Officer** means the person designated by this chapter to assist the Historic Preservation Commission in carrying out its duties, and perform administrative duties as required by this chapter, and by the zoning ordinance of the Town of Miami.
- (10) **Historic Preservation Plan** means that plan which specifies the objectives concerning the development of preservation of buildings, sites, objects, structures and landmarks within the Historic Preservation District, and which sets forth the standards necessary to preserve and maintain historical character of the historic resource.

**PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF MIAMI, ARIZONA
on this 3RD day of March, 2003.**



Mayor

Attest:


Town Clerk

Approved As To Form:


Town Attorney