



**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT**

DATE: September 27, 2023

TO: Planning Commission

FROM: Talyn Mirzakhania, Director of Community Development

THROUGH: Elizabeth Yee, Associate Planner

SUBJECT: Consideration of proposed zoning text amendments to Title 10 (Planning and Zoning), Part V (Administrative Regulations), and Chapter 10.86 (Historic Preservation) of the Manhattan Beach Municipal Code to clarify and supplement the existing Ordinance consistent with the City's intended historic preservation goals.

BACKGROUND

The City adopted its first Cultural Landmarks Ordinance in 2006, allowing for landmark designations upon the property owner's request. After updating the City's Mills' Act regulations in 2014, the City Council directed staff to update the Cultural Landmarks Ordinance with a more comprehensive and robust ordinance. Accordingly, on February 16, 2016, the City adopted the Historic Preservation Ordinance (i.e., Chapter 10.86 - Historic Preservation) that established a review process for historic resources (defined as historic landmarks, contributing resources to historic districts, and a broader set of properties potentially eligible for landmark designation), while retaining the property owner-initiated landmark designation process.

During 2021, the City received several inquiries on potential demolition of properties falling within the definition of historic resources, as they were potentially eligible for historic designation. The Ordinance at the time required a Certificate of Appropriateness, environmental review, and a 60-day waiting period for proposed demolitions of all historic resources.

On November 2, 2021, the City Council requested a discussion on the City's existing historic preservation ordinance, seeking clarity as to what portions of the ordinance were subject to property owner consent. On December 7, 2021, staff presented the requested information to City Council, including explanations of key requirements in the ordinance. At that meeting, the City Council conducted a discussion and concurred that the ordinance text differs from the intended policy direction during the 2016 adoption; confirmed that the requirements in the ordinance and policy direction was intended to be voluntary; and directed staff to take action(s) to amend the ordinance. As an immediate course of action, the City Council adopted a series of Urgency Ordinances to clarify portions of the ordinance as it relates to the need for property owner consent. The following Urgency Ordinances were adopted pertaining to this matter:

- January 18, 2022: [Urgency Ordinance No. 22-0002-U](#) was adopted to clarify the provisions in Chapter 10.86 to meet the true intent of the ordinance by narrowing the applicability of the Certificates of Appropriateness, 60-day waiting period for demolition, and environmental review to historical landmarks and contributing resources to historic districts only.
- March 1, 2022: [Urgency Ordinance No. 22-0004-U](#) was adopted to extend the interim Ordinance No. 22-0002-U for an additional 10 months and 15 days to allow staff additional time to study and draft a permanent ordinance.
- January 17, 2023: [Urgency Ordinance No. 23-0001-U](#) was adopted to extend the interim Ordinance No. 22-0002-U for an additional year, which is set to expire on January 17, 2024.

As the Urgency Ordinance No. 23-0001-U is set to expire on January 17, 2024, with no further opportunities to extend, staff prepared the proposed draft ordinance for Commission and City Council's consideration. Prior to City Council consideration, the Planning Commission is required to conduct a public hearing to review the proposed amendments to Chapter 10.86 and make a recommendation to the City Council. Without a permanent ordinance adopted in a timely manner, the applicable provisions will default back to those adopted in 2016.

DISCUSSION

As previously mentioned, the intent of the proposed amendments primarily focused on incorporating language to clarify the voluntary nature of various designations including historic resources, historic landmarks, and historic districts. In addition, auxiliary sections were amended to supplement and update the existing ordinance, so it reads as intended by City Council, references current environmental review standards, and more closely aligns with State and Federal Law. It should be noted that the draft ordinance is based on the Urgency Ordinance No. 23-0001-U adopted in January 2022, which already incorporated some of the

necessary amendments the City was seeking. Specific provisions added or modified to Urgency Ordinance No. 23-0001-U in the draft ordinance are summarized below:

1. **Owner Consent:** The amendment proposes to make significant changes to ensure owner consent at all stages and methods of the historic preservation process is required, including language to clarify procedure of nomination, evaluation, and withdrawal.
2. **Environmental Review:** The amendment intends to incorporate the requirements and applicability of the California Environmental Quality Act (CEQA) in terms of the designation and revocation of historic landmarks and districts.
3. **State and Federal Law:** The amendments propose advisory changes to the following:
 - a. Mills Act and related incentives to assist applicants seeking historic landmark or district designations.
 - b. Inventory of Historic Resources Survey requirements and procedure so that its development aligns with the Office of Historic Preservation.
 - c. Accessory Dwelling Units and Junior Accessory Dwelling Units on historic landmarks and districts.
4. **Intentions and Definitions:** The amendments also include updates to the definitions by adding clarifying language and deleting unclear or wordy verbiage. The most notable changes include the following:
 - a. Removal of 'Conservation Districts' as the number of qualifying properties in the City that would meet the criteria are insufficient.
 - b. Additional clarification of the varying levels of "alteration" permitted on a historically designated site when applying for a Certificate of Appropriateness.
 - c. Update to the applicable age of a property for preservation from 45 years to 75 years.

A full list of the proposed amendments is also provided as Attachment C, which outlines edits to all subsections of the ordinance.

Next Steps

The Planning Commission's recommendation on the proposed amendments to Chapter 10.86 are tentatively scheduled to be considered by the City Council at a duly noticed public hearing on October 17, 2023.

PUBLIC OUTREACH

The notice related to this public hearing was posted at City Hall and other City locations, posted on the City's website, and published in The Beach Reporter on September 14, 2023. The public was encouraged to provide comments during the commenting period from

September 14, 2023 to September 27, 2023. As of the writing of this report, staff has received no comments.

ENVIRONMENTAL REVIEW

The proposed code amendment is exempt from environmental review under CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.). This Ordinance is not subject to CEQA, because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, thus, as a separate and independent basis, the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. PC-06, recommending that the City Council: adopt amendments to Title 10 (Planning and Zoning), Part V (Administrative Regulations), Chapter 10.86 (Historic Preservation) of the Manhattan Beach Municipal Code to update the City's Historic Preservation Ordinance, and make a determination of exemption pursuant to CEQA.

ATTACHMENTS

- A. Draft Resolution
 - o Exhibit A: Draft Ordinance (Clean Version)
- B. Draft Ordinance (Redline Version of Urgency Ordinance, adopted January 18, 2022)
- C. Summary of amendments

Attachment A: Draft Ordinance

RESOLUTION NO. PC 23-06

**RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AMENDMENTS TO TITLE 10
(PLANNING AND ZONING), PART V (ADMINISTRATIVE REGULATIONS), CHAPTER
10.86 (HISTORIC PRESERVATION) OF THE MANHATTAN BEACH MUNICIPAL CODE
TO UPDATE THE CITY'S HISTORIC PRESERVATION ORDINANCE**

**THE MANHATTAN BEACH PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE AS
FOLLOWS:**

SECTION 1. The City Council requested staff to research and propose amendments to Title 10 (Planning and Zoning), Part V (Administrative Regulations), Chapter 10.86 (Historic Preservation) of the Manhattan Beach Municipal Code to update the Historic Preservation Ordinance to further clarify the original intent of voluntary designation and applicability of the chapter.

SECTION 2. On January 18, 2022, Urgency Ordinance No. 22-0002-U was adopted to clarify the provisions in Chapter 10.86 to meet the true intent of the ordinance by narrowing the applicability of the Certificates of Appropriateness, 60-day waiting period for demolition, and environmental review to historical landmarks and contributing resources to historic districts only.

SECTION 3. On March 1, 2022, Urgency Ordinance No. 22-0004-U was adopted to extend the interim Ordinance No. 22-0002-U for an additional 10 months and 15 days to allow staff additional time to study and draft a permanent ordinance.

SECTION 4. On January 17, 2023, Urgency Ordinance No. 23-0001-U was adopted to extend the interim Ordinance No. 22-0002-U for an additional year, which is set to expire on January 17, 2024.

SECTION 5. The Planning Commission hereby makes the following findings:

- A. The proposed zoning text amendments to Chapter 10.86 (Historic Preservation) serve to clarify the original intent of the voluntary designation of a historic resource, historic landmark, and historic district. The amendments further modify provisions related to the owner's consent, environmental review under the California Environmental Quality Act (CEQA), new applicable State and Federal laws, Certificates of Appropriateness and associated definitions.
- B. On September 27, 2023, the Planning Commission conducted a duly noticed public hearing to consider amendments to Chapter 10.86 (Historic Preservation) to further clarify the original intent of voluntary designation and applicability of the chapter, during which the Planning Commission received a presentation by staff and testimony from members of the public. The Planning Commission also received and reviewed written testimony received by the City prior to the public hearing.
- C. The Planning Commission public hearing notice for September 27, 2023 included a ¼ page display ad published in The Beach Reporter, a newspaper of general circulation in Manhattan Beach, and at City Hall and various other City facilities.
- D. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, et seq.
- E. The proposed amendments to Chapter 10.86 (Historic Preservation) are not subject to the California Environmental Quality Act ("CEQA"), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, thus, as a separate and independent basis, the amendments are exempt pursuant to CEQA Guidelines Section 15061(b)(3).
- F. The proposed zoning text amendment will be consistent with the General Plan Goal LU-4 of the General Plan Land Use Element to "encourage the preservation and enhancement of unique residential homes and building through Manhattan Beach to preserve the culture and history of the city."

SECTION 6. The Planning Commission hereby recommends that the City Council adopt amendments to Title 10 (Planning and Zoning), Part V (Administrative Regulations), Chapter 10.86 (Historic Preservation) of the Manhattan Beach Municipal Code, which is incorporated herein by reference as "Exhibit A".

SECTION 7. The Planning Commission's recommendation is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 8. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the Applicant. The Secretary shall make this resolution readily available for public inspection.

September 27, 2023

Robert Tokashiki
Planning Commission Chair

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on **September 27, 2023** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Talyn Mirzakhanian
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

Exhibit A: Draft Ordinance

Exhibit A: Draft Ordinance

Title 10 - PLANNING AND ZONING
PART V - ADMINISTRATIVE REGULATIONS
Chapter 10.86 HISTORIC PRESERVATION

Chapter 10.86 HISTORIC PRESERVATION

10.86.010 Title.

This chapter shall be known as the "Historic Preservation Ordinance" of the City of Manhattan Beach.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.020 Purpose.

The purpose of the Historic Preservation Ordinance is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, objects, sites, and features that represent the City's architectural, cultural, social, historical, and political heritage. The standards and requirements in this chapter are intended to balance historic preservation objectives and property owners' rights. Further, it is the intent and purpose of the Manhattan Beach City Council in passing this chapter to:

- A. Safeguard the City's heritage and small-town beach atmosphere by encouraging the identification, recognition, and protection of landmarks representing significant elements of the City's history and culture;
- B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City's past and small-town beach atmosphere;
- C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to residents and visitors alike, and safeguarding our heritage for future generations;
- D. Encourage public education and voluntary participation in the City's historic preservation program;
- E. Encourage public knowledge, understanding, and appreciation of our cultural, social, and architectural history and heritage;
- F. Preserve diverse and significant architectural styles and property types reflecting phases of the City's history and encourage complementary contemporary design and construction;
- G. Establish criteria for a comprehensive survey of historic resources, as defined by the Public Resource Code Section 5020.1, Section 5024.1, and Section 5024.5, within the boundaries of the City to publicize and periodically update survey results;
- H. Establish a policy and practice of the City that ensures that property owners will be notified of a determination of the potential eligibility of a property for landmark designation; however, no properties will be listed without the property owners' consent;
- I. Adopt incentives that promote the preservation and rehabilitation of historic properties; and
- J. Ensure City compliance with Section 21084.1 of the California Environmental Quality Act which specifies that a project that may cause a substantial adverse change in the significance of historical resources (as defined by the Public Resource Code Section 5020.1, Section 5024.1, and Section 5024.5) is a project that may have a significant effect on the environment.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.030 Definitions.

The following terms when used in this chapter shall have the meaning set forth in this section, unless a different meaning clearly appears from the context:

"Accessory Dwelling Units (ADU)" and "Junior "Accessory Dwelling Units (JADU)" as defined in Chapter 10.74 of this Title

"Addition" means any expansion or increase in floor area or height of a building or structure.

"Alteration" means any act or process that modifies a historic landmark or contributing resource that either: (1) requires a building or other permit and changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the erection, construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes the setting and/or any character-defining feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource, regardless of whether such act or process requires a building or other permit.

"Building Official" means the individual (or his or her designee) so designated by the City, for purposes of implementing Title 9 (Building Regulations) of the Municipal Code.

"Certificate of Appropriateness" means the permit granted on the finding by the Planning Commission or Director is in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties for an application to demolish, alter, or relocate a historic landmark or contributing resource. A ministerial application for Certificate of Appropriateness, approved by the Director, would include all projects defined as a "Minor alteration" or "Negligible alteration". A discretionary application of Certificate of Appropriateness, approved by Planning Commission, would include all projects outside of the scope of Minor and Negligible Alterations and are subject to California Environmental Quality Act (CEQA).

"California Environmental Quality Act (CEQA)" means the California law requiring public agencies to study, document, and consider the potential environmental effects of a proposed action prior to allowing the action to occur. The provisions of CEQA are codified in Public Resources Code Section 21000 et seq., and the State of California CEQA Guidelines, as set forth in the California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.

"Character-defining feature" means the physical elements and characteristics through which a historically significant property expresses its significance. Character-defining features include but are not limited to overall form and massing, materials, finishes, architectural style, decorative detailing, site features and relationship to neighboring properties, landscaping, and interior features.

"Community Development Director" or "Director" means the Community Development Director or his or her designee.

"Contributing resource" (or "contributor") means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is either a separately designated historic landmark or designated as a resource that contributes to the district's historic, cultural, or architectural significance.

"Demolition" means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity.

"Economic Hardship Exception" means the permit granted to a property owner or applicant by the Planning Commission to provide administrative relief due to undue economic hardship on the owner, for a project that does not comply with the Secretary's Standards and is therefore ineligible for a Certificate of Appropriateness.

"Historic district" means a geographic area having a significant concentration, linkage, or continuity of buildings, structures, objects, sites, and other features united historically or aesthetically by plan or physical development that has been designated pursuant to the provisions in this chapter.

"Historic integrity" means a property with the ability to convey its historic or architectural significance as evidenced by the survival of physical characteristics or historic fabric that existed during the historic resource's period of significance. As defined by the National Parks Service and in accordance with the accepted standards of professional preservation practice, historic integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association. A property or area need not possess all seven (7) aspects, but must retain enough to convey the reason for its significance. "Historic landmark" means any building, structure, object, site, sign, area, place, or natural feature designated as a historic landmark pursuant to this chapter.

"Historic resource" means a property listed, nominated, or eligible for listing in the Register of Historic Resources, including Historic Landmarks, Historic Districts, and contributing resources to Historic Districts.

"Improvement" means a physical feature of real property, or any part of such feature.

"Inventory of Historic Resources" means the inventory of buildings, structures, objects, sites, Historic Districts, signs, areas, places, and natural features determined potentially eligible for local landmark listing in the City, prepared and approved in accordance with Section 10.86.050.

"Manhattan Beach Preservation Organization" or "MBPO" means a group comprised of voluntary members of the community, recognized by the City of Manhattan Beach, such as the Manhattan Beach Cultural Heritage Conservancy (MBCHC) or the Manhattan Beach Historical Society, that assists in increasing public awareness and community appreciation of Manhattan Beach history.

"Major alterations" means any work to a property that includes the alteration, removal, or obstruction of character-defining features, elevations, and spaces, or additions to a property that are visible from the public right-of-way.

"Mills Act" means the California state law, Government Code Section 50280, et seq., that allows cities to enter into contracts with the owners of historic structures. Such contracts require a reduction of property taxes in exchange for the continued preservation of the property.

"Minor alterations" means any work to a property that does not include changes/removal of character-defining features. Minor alterations generally includes the following, to the extent they do not include changes/removal of, or do not affect, character-defining features:

- (1) Any removal or change to insignificant exterior features of designated historic resources, including additions, doors, windows, and exterior siding material that are non-original or otherwise lack historic integrity, including paint color; repairs to roofing and foundations;
- (2) Any alteration requiring a permit that does not substantially change the exterior character-defining features of a designated historic resource, including minor additions on secondary facades such as construction, demolition, or alteration of side, rear, and front yard fence, albeit all of which would be subject to the Secretary of the Interior's Standards;
- (3) Ordinary maintenance and repair;
- (4) Landscaping, including sprinkler system work;
- (5) Paving work;
- (6) All alterations that are entirely interior and do not affect the exterior of property, except for interior features that are specifically mentioned as being important in a landmark designation; and
- (7) Replacement of existing screens and awnings with the same or substantially consistent materials, form and shape,
- (8) Any other undertaking of similar scope or scale as determined by the Director.

"Negligible alteration" means any work identified below that is undertaken on any building, structure, object, site, sign, area, place, or natural feature within a historic district but that is a non-contributing resource to that historic district:

- (1) All work that is entirely interior and does not affect the exterior of a designated historic resource, except for interior features that are specifically mentioned as character-defining features in a landmark designation adopted by the City
- (2) Installation of rooftop equipment, including solar panels, not visible from the public right-of-way.
- (3) Re-roofing in a different material that replicates the existing or original roofing.
- (4) Window and door repair to correct deterioration, decay, or damage to existing original windows or doors.
- (5) If original windows and doors are beyond repair, replacement windows and doors matching the appearance of the original windows and doors.
- (6) Repair of existing historic ornament (including, but not limited to, porches, cornices, plaster work, and eaves).
- (7) Any additional ordinary maintenance and repair to correct deterioration, decay, and/or damage to existing Historic material.
- (8) Replacement of a non-historic garage door with one that is compatible in terms of design and material, and minimizes its visual impacts on the character-defining features of the historic resource.
- (9) Seismic upgrades that minimize the alteration of character-defining features of a historic resource.
- (10) Any other undertaking of similar scope or scale as determined negligible by the Director.

"Non-contributing resource" means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is not a contributing resource.

"Ordinary maintenance and repair" means work on a historic resource that (i) does not, by law, require issuance of a permit; (ii) involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (iii) does not involve a change of design, material, or appearance of the property.

"Owner" or "Property Owner" means any person(s), association, partnership, firm, corporation, public entity, or combination thereof, identified as the holder of title of any property.

"Planning Commission" or "Commission" means the Planning Commission of the City of Manhattan Beach.

"Prehistory" refers to the period in history prior to the advent of written records, revealed through archaeological and paleontological discoveries and analysis.

"Qualified professional(s)" shall mean any of the following professions/occupations:

- "Architectural historian" shall refer to an architectural historian who meets the Secretary of the Interior's Professional Qualifications Standards in architectural history, as defined by the National Park Service.
- "Historian" shall refer to a historian who meets the Secretary of the Interior's Professional Qualifications Standards in history, as defined by the National Park Service.
- "Historic architect" shall refer to a licensed architect who meets the Secretary of the Interior's Professional Qualifications Standards in historic architecture, as defined by the National Park Service.
- "Structural engineer" shall refer to any individual registered by the State of California to practice structural engineering and to use the title Structural Engineer pursuant to the State of California Business and Professions Code, Chapter 7, Section 6701. When working with historic buildings and

structures for the City of Manhattan Beach, the Structural Engineer shall have experience in historic preservation.

"Register of Historic Resources" means the register of Historic Landmarks, Historic Districts, and contributing resources to Historic Districts prepared and approved in accordance with the provisions of this chapter.

"Rehabilitation" means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural significance.

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

"Secretary of the Interior's Standards for the Treatment of Historic Properties" or "Secretary's Standards" means both the Standards and the Guidelines developed by the United States Department of the Interior, National Park Service, for the preservation, rehabilitation, restoration, and reconstruction of historic resources.

"Survey" means the process of identifying and gathering information for the assessment of a property's historic and/or cultural significance in accordance with the standards set forth by Public Resources Code Section 5024.1 (g). The resulting list, the Inventory of Historic Resources, would be of resources that have the potential to become historical landmarks, resources or, historic districts.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 4, Ord. 17-0014, eff. September 14, 2017)

10.86.040 Planning Commission.

- A. **Designation of Commission.** The Planning Commission shall have and exercise the powers and perform the duties set forth in this Chapter.
- B. **Powers and Duties.** For the purposes of this Chapter, the Commission shall have the following powers and duties, in addition to any other duties specified in this Chapter:
 - 1. **General Powers.** The Commission shall be an advisory board to the City Council and all City departments and staff on all matters relating to the identification, protection, retention, preservation, and registration of historic resources in the City, as directed by the City Council.
 - 2. **Enumerated Powers.** The Commission shall:
 - a. Administer the provisions of this Chapter;
 - b. Advise the Council in all matters pertaining to historic preservation in the City;
 - c. Compile and maintain for public use and information the Register of Historic Resources;
 - d. Compile, maintain, and periodically update the Inventory of Historic Resources;
 - e. Recommend the designation of and nominate historic landmarks and districts;
 - f. Approve or disapprove in whole or in part applications for certificates of appropriateness and certificates of economic hardship for the demolition, alteration, or relocation of designated landmarks, including individual landmarks, historic districts, sites, and their contributing improvements and natural features;
 - g. Review and comment on the decisions and documents, including but not limited to environmental assessments, Environmental Impact Reports, and Environmental Impact Statements, prepared by the City or other public agencies when such decisions or documents might affect designated or eligible historical resources within the City;

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- h. Participate in, promote, and conduct public informational, educational, and interpretive programs pertaining to historic preservation;
 - i. Recommend and encourage the protection, enhancement, appreciation, and use of properties of historical, cultural, architectural, community or aesthetic value that have not been designated as historical resources but are deserving of recognition at the election of, or with the concurrence of, the property owner on a voluntary basis;
 - j. Review applications and make recommendations to the City Council on Mills Act Tax Abatement program contracts;
 - k. Upon request, make recommendations to the City Council on zoning and general plan amendments related to historic preservation goals and policies; and
 - l. Perform any other functions that may be designated by resolution or action of the City Council.

(§ 3, Ord. 17-0014, eff. September 14, 2017)

Editor's note(s)—Ord. 17-0014, § 1, adopted August 15, 2017, in effect, repealed § 10.86.040 and enacted a new § 10.86.040 as set out herein. Former § 10.86.040 pertained to the historic preservation commission and derived from (§ 8, Ord. 16-0034, eff. March 18, 2016.

10.86.050 Inventory of Historic Resources.

The Commission shall compile, maintain, and periodically update the Inventory of Historic Resources. Upon the request of the City Council, the Commission shall forward a plan to the City Council recommending a comprehensive historic resources survey, completed in compliance with the standards set forth in Public Resources Code Section 5024.1 (g), as it may be amended from time to time, which will provide the baseline data for the inventory. Upon authorization by the City Council, the Commission shall cause completion of the comprehensive historic resources survey. Based upon the results of the survey, the Commission shall compile the inventory. Property owners shall be notified of a determination of the potential eligibility of a property for landmark designation. No properties will be formally proposed for landmark designation without the property owner's consent. The City may encourage the voluntary designation of potential historic resources as landmarks or historic property through an application process.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 4, Ord. 17-0014, eff. September 14, 2017)

10.86.060 Register of Historic Resources.

- A. **Register Established.** There is hereby established the Manhattan Beach Register of Historic Resources, a register of locally designated Historic Landmarks, Historic Districts, and contributing resources to Historic Districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.
- B. **Effect of National or State Designation.** Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is eligible for designation as a historic landmark for purposes of this chapter.
- C. **Prior Designations.** Any historic landmark designated as a culturally significant landmark or as a historic landmark by the City on or before the effective date of the ordinance initially adopting this chapter shall not automatically be designated a historic landmark for purposes of this chapter, but shall require review to determine if the designation is consistent with the provisions of this chapter.
- D. **New Designations.** New designations of Historic Landmarks and Historic Districts can be initiated in accordance with the criteria and procedures set forth in this chapter; and are subject to property owner consent.

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- E. **Designation Runs with the Land.** The designation of a historic landmark, historic district or contributing resource runs with the land, and is not affected by a change of the property owner.
 - F. **Rescission of Designation.** The conditions and process for amendment or rescission of a designation as a historic landmark or district, or of a contributing resource, are described in Section 10.86.130 (Amendment or Rescission of Designation).
 - G. **Determination of Eligibility for Use of a California Environmental Quality Act Categorical Exemption.** Section 15300.2(f) of the State of California Environmental Quality Act (CEQA), guidelines disallows the use of a categorical exemption for a project which causes a substantial adverse change in the significance of a historical resource. The criteria set forth in Sections 10.86.100 and 10.86.160 can be used as the basis for determining if any addition, demolition, alteration, or relocation requested would(i) result in a substantial adverse change in the significance of a historical resource or (ii) is consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. .
 - H. Mills Act contracts include the City and property owner’s negotiated terms, and are binding for an initial 10 years with automatic yearly extensions and remain in effect when the property is transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract for the duration of the contract period. New owners shall contact the City for the terms of the rights and obligations a Mills Act contract creates.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.070 Designation criteria for Historic Landmarks.

- A. The Council may designate a property, with owner's voluntary consent, as a historic landmark and add it to the Register of Historic Resources if it meets the requirements of paragraphs B, C, and D of this section.
- B. In order to be eligible for consideration as a landmark, a property must be at least 75 years old. A historic property less than 75 years of age may qualify for local listing if the Director, Commission, and/or City Council determine that the resource is of exceptional architectural, cultural, social, and/or historical importance to the City, as verified by a qualified architectural historian or historian.
- C. Historic landmarks must retain integrity from their period of significance, as determined by a qualified architectural historian or historian. A proposed landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its historic, cultural, or architectural significance.
- D. Historic landmarks must meet at least one of the following criteria:
 - 1. It is or was once associated or identified with important events or broad patterns of development that have made a significant contribution to the social, political, cultural, or architectural history of the city, region, state, or nation.
 - 2. It is or was once associated with an important person or persons who made a significant contribution to the history, development, and/or culture of the city, region, state, or nation.
 - 3. It embodies the distinctive characteristics of a style, type, period, or method of construction.
 - 4. It represents the work of a master, or possesses high artistic or aesthetic values.
 - 5. It represents the last, best remaining example of an architectural type or style in a neighborhood or the city that was once common but it [is] increasingly rare.
 - 6. It has yielded or has the potential to yield information important to the prehistory or history of the city, region, state, or nation.

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- E. Neither the deferred maintenance of a proposed landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility under the appropriate criteria and theme of significance.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.080 Designation procedures—Historic landmarks.

- A. **Application.** The City Council, Planning Commission, Director, a MBPO, or the owners of the subject property or their authorized agents, may apply for historic Landmark Designation. In the event the City or the MBPO initiates the application, the Director shall oversee and cause the completion of the required application with owner consent.
- B. **Required Information.** All applications shall be made on a form prescribed by the Director and shall include the following data:
1. The assessor's parcel number and legal description of the site.
 2. A description of the historic property and statement of how it qualifies under the criteria described in Section 10.86.070, including the period of significance.
 3. A detailed architectural description, enumerating the property's character-defining features, elevations, and spaces.
 4. Construction chronology of the property, including history of major alterations/additions.
 5. Ownership history.
 6. A statement of significance describing why and how the property or feature meets the eligibility criteria of the Code including the area of significance, theme, and period of significance.
 7. Current photographs and (if available) historic photographs, maps, plans, sketches, drawings, deeds, permits, or other descriptive material as available to support the nomination's historic integrity and period of significance that conveys the reason for their significance.
 8. The signature of the property owner(s) or their authorized agents (owner consent).
 9. Such other information as requested by the Commission or Director.
- C. **Evaluation.** Within 60 days after the date a designation application is deemed complete, the Director shall prepare, or cause to be prepared, a historic resources evaluation to determine the eligibility of the property and to document all potentially historic features of the subject property, including the character defining features, and prepare a report to the Commission. The evaluation shall be conducted by a qualified architectural historian or historian.
- D. **Commission Review and Recommendation.** The Commission shall conduct a public hearing on the application. After the close of the hearing, the Commission shall adopt a resolution recommending to the Council the approval, conditional approval, or denial of the application.
- E. **Council Determination.** After receiving the Commission's recommendation, the Council shall conduct a public hearing on the landmark nomination application. The Council shall adopt a resolution approving, conditionally approving, or denying the application. If the Council has not taken action on the application within 150 days of the Commission's recommendation, or within 150 days after the date the application was deemed to have been forwarded to the Council without recommendation, then the application shall be deemed denied. The Council shall not approve or conditionally approve the Landmark Designation absent owner consent.
- F. **Designation.**

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1. Upon designation by the Council, the Director shall forward a copy of the resolution approving the designation of a historic landmark to any department or agency that the Director deems appropriate, and shall record or cause to be recorded the location, characteristics, and significance of the historic landmark on a California Department of Parks and Recreation Historic Resources Inventory Form 523, or current equivalent form, in accordance with the practices specified by the State Office of Historic Preservation for the recordation of historic resources.
 2. A designated historic landmark may be identified by a marker, created or designed by the owner and approved by the City pursuant to the Sign Code, Chapter 10.72 of the City's municipal code, but such a marker is not required.

G. Withdrawal.

1. A property owner who has signed an application for the designation of his/her property for a historic landmark may withdraw such consent by filing a written notice of withdrawal with the city clerk at any time prior to the close of the public hearing thereon before the planning commission or before the city council.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 2, Ord. 17-0014, eff. September 14, 2017)

10.86.090 Owner consent for Landmark Designation.

The City shall not designate any landmark without property owner's consent.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.100 Designation criteria for Historic Districts.

- A. In addition to satisfying the criteria in Section 10.86.070 (where applicable), when recommending the approval of the nomination of a historic district, the Commission must also find:
 1. That the historic district is an identifiable and distinct entity with clear boundaries and that it possesses a significant concentration of buildings, structures, and related features sharing common historical, visual, aesthetical, cultural, archaeological, or architectural plan or physical development; and
 2. That the historic district retains integrity from its period of significance as determined by a qualified architectural historian or historian. Not all properties or features within a proposed district need to retain all seven aspects of integrity (location, design, setting, materials, workmanship, feeling, and association), but a substantial number of such properties and structures must retain sufficient integrity to convey the historic, cultural, or architectural significance of the district.
- B. The components of an eligible historic district may lack individual distinction but still represent a significant and distinguishable entity that meets eligibility criteria.
- C. Neither deferred maintenance within a proposed district nor the dilapidated condition of its constituent buildings and landscapes shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility under the appropriate criteria and theme of significance.
- D. As part of the City's review, a survey and survey documentation for a historical resource and historic district designated or listed as a historic landmark, historic property, or district, pursuant to Public Resource Code 5024(g) (4), will be prepared in accordance with the OHP procedures and requirements and will be evaluated to have a significant rating of Category 1 to 5 on a Department of Parks & Recreation (DPR) Form 523.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.110 Designation procedures—Historic districts.

- A. **Applicable Historic Landmark Procedures.** Procedures for the application and designation of Historic Districts, including the time limits specified in paragraphs C, D, and E of Section 10.86.080, shall be the same as those applicable to Historic Landmarks, except as modified by this section. If, prior to an application for designation of a historic district being deemed complete, the Director requests additional information, the applicant shall have sixty (60) days to submit the requested information. If the applicant fails to submit the requested information within that sixty (60) day period the application shall be administratively withdrawn. The applicant for the Historic District designation may request a suspension of the schedule to address an unforeseen change in circumstances or information that was not known at the time of the original application. In that event, no further action shall be taken on the proposed district until a new application is submitted.
- B. **Applications.** In addition to all other information and materials described in paragraph B of Section 10.86.080 (which information shall be provided for each proposed contributing resource), all applications for designation of Historic Districts shall include a depiction of the proposed district that includes a clear and distinct description of its boundaries and a report prepared by a qualified professional describing all contributing and non-contributing resources within the district.
- C. **Petition Required.** Prior to the hearing before the Commission, a petition in support of the application, that is signed by at least sixty percent (60%) of the owners of the parcels within the proposed district, must be submitted to the Director. For purposes of the petition requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the sixty percent (60%) required.
- D. **Commission and Council Action.**
1. Whenever the Council designates a historic district, it shall also adopt: (1) a written description and clear depiction of the district boundaries; and (2) a detailed report that identifies and describes period of significance, the contributing resources and elements of the district, as well as those resources and elements that are not contributing resources.
 2. The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new construction, alterations and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. Any such guidelines require Council approval.
 3. The written consent of a minimum of sixty percent (60%) of the owners of the parcels within the proposed district must be obtained and submitted to the Director in order for the district to be designated. For purposes of this consent requirement, each parcel must have the signatures of all of the owners of that property but only one (1) signature shall be counted per parcel for purposes of calculating the sixty percent (60%) required.
 4. At any time prior to designation of the historic district by the City Council, a property owner may elect not to be included with the proposed district, by written notice to the Director. The property of the person so notifying the Director shall not be included within the proposed district.
- E. **Reevaluation of Surveys for Eligibility.** Per PRC 5024.1(g) (4), if the survey is five or more years old at the time of its nomination for a historic district, the survey is updated to identify the following:
1. Resources which have become eligible or ineligible due to change in circumstances or the existence of further documentation of the resource
 2. Resources which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

F. **Consideration for Eligibility for Listing in California Register of Historical Resources.** Where the City believes that a Historic District is eligible for listing on the California Register of Historical Resources, and with the consent of 100% of the affected properties, the City may submit the Historic Property Survey Report to the California Office of Historic Preservation for consideration and evaluation for listing.

G. **Withdrawal.**

A property owner who has signed an application for inclusion of his/her property in a proposed historic district may withdraw such consent by filing a written notice of withdrawal with the city clerk at any time prior to the close of the public hearing thereon before the Planning Commission or before the City Council.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.120 Owner consent for inclusion as contributing element to Historic District.

Notwithstanding Section 10.86.110. D.3, the City shall not designate a property as a contributing element to a historic district without owner's consent.

10.86.130 Amendment or rescission of designation.

A. **Criteria for Rescission.** Once a historic landmark, historic district, or contributing resource is so designated, the designation shall not be repealed by the City Council unless it is determined that: (1) the evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or (2) the historic landmark, historic district, or contributing resource no longer meets the criteria for designation under Section 10.86.070 or 10.86.110. The City's Inventory of Historic Resources shall be updated due to changed circumstances with documentation for those which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

B. **Amendment or Rescission.** The Council may amend or rescind the designation of any designated historic landmark, historic district, or contributing property to a historic district in the same manner that is followed for designation.

C. **Rescission: Substantial Destruction.**

1. In the event of substantial destruction of a landmark or historic district, the owner(s) of the parcels may apply for removal of designation. The Commission or Council may also initiate removal in such circumstances. The removal of a designation for this reason shall be processed and decided in the same manner as designations as set forth in this chapter, with the additional requirement that the determination of substantial destruction shall be set forth in the findings of the Commission.
2. Destruction or removal of a landmark following a natural disaster shall result in the automatic removal of the landmark designation.
3. Once a landmark or historic district designation has been removed, affected properties shall no longer be subject to any provision or regulation of this chapter.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.140 Duty to maintain historic resources.

Every owner of a historic landmark or contributing resource to a historic district shall maintain and keep such resources in good repair, in a manner that clearly ensures the continued availability of such premises for lawful and reasonable uses, and which prevents deteriorating, dilapidation and decay of any portion of such resource.

10.86.145 Accessory Dwelling Units and Junior Accessory Dwelling Units.

Accessory Dwelling Units and Junior Accessory Dwelling Units under conditions specified in the law, are permitted on a historic property, in a historic district, or in a contributing resource with historic significance. Per Government Code Section 65852.2, objective standards including, but not limited to, design, development, and historic standards will apply on said accessory dwelling units. Parking standards shall not be imposed for an ADU where the ADU is located with an architecturally and historically significant property or district. These objective standards are applied to prevent the adverse impacts on any real property that is listed in the California Register of Historic Resources. Approval of accessory dwelling units are a ministerial action and will require a permit application for the construction of an accessory dwelling unit.

10.86.150 Certificate of Appropriateness—Requirement.

A Certificate of Appropriateness is required when the owner is seeking a permit for an addition to, demolition of, alteration of, or relocation of any historic resource listed on the National Register of Historic Places, listed on the California Register of Historical Resources, designated as a historic landmark by the City, or designated as a contributor to a designated historic district. The Planning Commission shall take reasonable measures to ensure historic resources are not inadvertently or unnecessarily destroyed and explore all alternatives to their demolition. The full demolition of a historic landmark or contributing resource is considered a discretionary permit and subject to the California Environmental Quality Act (CEQA) and Permit Streamlining Act. Therefore, a demolition permit shall not be issued until the requirements of this Section have been met. Per CEQA guidelines, where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

- A. **Certificate Required.** No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any resource listed on the National Register of Historic Places, listed on the California Register of Historical Resources, designated as a historic landmark by the City, or designated as a contributor to a designated historic district unless the City has first issued a Certificate of Appropriateness in accordance with the requirements of this chapter. See also Section 10.86.180 regarding pending applications.
- B. **Exemptions.** A Certificate of Appropriateness shall not be required for ordinary maintenance or repair or minor alterations or for projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance of the property.
- C. **Administrative Review.** A Certificate of Appropriateness may be issued by the Director for work that constitutes a “negligible alteration” or a “minor alteration” and requires issuance of a permit but does not involve a change of design, material, or appearance to character-defining features, nor the removal or obstruction of a character-defining feature, of a designated historic landmark or contributing property of a designated historic district. In addition, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the following types of alterations:
 - 1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.
 - 2. Addition or deletion of awnings, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.
 - 3. Minor additions of square footage (one hundred fifty (150) square feet or less), as determined by the Director, where such additions are on the rear elevation and not visible from the public right-of-way and would not remove, change, or obstruct any of the property's character-defining features.
 - 4. Alterations previously identified in an adopted design guidelines plan for a historic district and designated in such guidelines for review through the plan check process and approved accordingly.

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- D. **Commission Review.** Applications for a Certificate of Appropriateness for work that does not qualify for administrative review pursuant to paragraph C of this Section 10.86.150 shall be referred to the Commission.
(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.160 Certificate of Appropriateness—Procedures.

- A. **Application.** An application for a Certificate of Appropriateness shall be filed with the Community Development Department upon the prescribed form and shall contain the following data:
1. A description of the proposed work and an explanation of how it is compatible with the Secretary's Standards and other applicable standards as appropriate by a qualified professional.
 2. Detailed architectural plans, including floor plans and scaled elevations and drawings, illustrating the scale, massing, and appearance of the proposed work, including existing and proposed elevations and plans. Information on the specifications and appearance of existing and proposed replacement materials and features should also be included.
 3. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment.
 4. Relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage, for new construction in Historic Districts.
 5. Other information deemed necessary by the Director.
- B. **Commission Review.** The Commission shall conduct a public hearing on the application, after which it shall adopt a resolution approving, conditionally approving, or denying the application.
- C. **Administrative Review.** Notwithstanding the previous paragraph, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the minor alterations described in Section 10.86.150(C). The following considerations shall guide the review and issuance of certificates of appropriateness at the administrative review level:
1. If the Director determines that the proposed work would not result in a change of design, material, or appearance of the property's character-defining features, and all elements of the project comply with the Secretary's Standards, the Director shall approve the Certificate of Appropriateness.
 2. If the Director determines that the proposed work may result or would result in a change of design, material, or appearance of the property's character-defining features, or has the potential to conflict with the Secretary's Standards, the Director may deny the Certificate of Appropriateness or refer the Certificate of Appropriateness to the Commission for review.
- D. **Findings Required.** No Certificate of Appropriateness may be approved by either the Commission or Director unless the findings specified in Section 10.86.170 are made, or an Economic Hardship Exception is approved pursuant to Section 10.86.200.
- E. **Issuance of Certificate.** Upon approval, copies of the Certificate of Appropriateness shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.
- F. **Appeal.** Decisions of the Director and Commission regarding a Certificate of Appropriateness are subject to appeal in accordance with Section 10.86.230. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.
- G. **Expiration of Certificate of Appropriateness.** A Certificate of Appropriateness shall lapse and become void eighteen (18) months (or a shorter period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the certificate has commenced prior to such expiration date and is diligently pursued for completion. Upon request of the property owner, a Certificate of Appropriateness may be extended by the Director for an additional period of

up to twelve (12) months. The Director may approve, approve with conditions, or deny any request for extension.

- H. **Revocation of Certificate of Appropriateness.** A Certificate of Appropriateness may be revoked or modified for reasons of (1) noncompliance with any terms or conditions of the Certificate; (2) noncompliance with any provisions of this Chapter; or (3) a finding of fraud or misrepresentation used in the process of obtaining the Certificate. Revocation proceedings may be initiated by motion of the original approving body. Once revocation proceedings have been initiated, all work being done in reliance upon such Certificate or associated permits shall be immediately suspended until a final determination is made regarding the revocation. The decision to revoke a Certificate of Appropriateness shall be made by the original approving body, in the original process of proceedings with written notice provided to the property owner at least ten days prior thereto. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Planning Commission or City Council, whichever is the next governing body. (§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.170 Certificates of appropriateness—Findings.

- A. **Standard Findings.** A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, makes all of the following findings:
1. The project will not cause a substantial adverse change in the significance of an historic landmark or contributing resource in accordance with the California Environmental Quality Act.
 2. The project is consistent with the provisions of this chapter.
 3. The project is consistent with the Secretary's Standards and any applicable design guidelines adopted by the City.
- B. **Additional Findings for Demolitions.** In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic landmark or contributing resource, all of the following additional findings must be made.
1. The mandatory sixty (60) day waiting period has expired.
 2. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.
 3. Restoration or rehabilitation would require extensive alterations that would render the resource infeasible of preservation.
 4. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.
 5. The deterioration of the historic landmark or contributing resource is not the result of the failure of the owner to maintain the property in accordance with Section 10.86.140.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.180 Work moratorium.

- A. **Moratorium—Pending Historic Landmark Designation.** Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity on a proposed historic landmark while a submitted application for designation is pending, without first having obtained a Certificate of Appropriateness, if the activity is one for which a Certificate of Appropriateness would be required for a historic landmark.
- B. **Moratorium—Pending Historic District Designation.** Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness for any proposed contributing resource

within the boundaries of a proposed historic district while a submitted application for designation is pending, without first having obtained a Certificate of Appropriateness, if the activity is one for which a Certificate of Appropriateness would be required for a contributing resource.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.190 Sixty (60) day waiting period for demolition.

Applications for a Certificate of Appropriateness for demolition of a historic landmark and contributing resource shall be subject to a sixty (60) day waiting period. During this period, the Director shall post a notice of the pending demolition permit in a location on the property that is visible from the nearest street (or in a similarly visible location adjacent to the property) and shall explore alternatives to demolition, including adaptive re-use and/or rehabilitation in accordance with the Secretary's Standards, application of the State Historic Building Code to allow for flexibility in code requirements in cases of adaptive reuse or rehabilitation, possible use of financial incentives such as the Mills Act Tax Abatement program, relocation, resale, or other provisions as appropriate.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.200 Economic Hardship Exception.

- A. **Certificate.** The Commission may issue an Economic Hardship Exception to allow alteration or demolition of a historic landmark or contributing resource where denial of a Certificate of Appropriateness would create an undue hardship upon the owner.
- B. **Applications.** An application for an Economic Hardship Exception shall be filed either concurrently with, or after, filing the related application for a Certificate of Appropriateness. An application for an Economic Hardship Exception shall be made on the prescribed form and be accompanied by the following information, unless any such information is determined by the Director not to be applicable:
 - 1. The estimated market value of the property in its current condition with supporting documentation.
 - 2. The estimated market value of the property after completion of the proposed alteration or demolition with supporting documentation.
 - 3. Estimates of the costs of proposed alteration or demolition with supporting documentation.
 - 4. In the case of demolition, the estimated market value of the property after renovation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 - 5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 - 6. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.
 - 7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.
 - 8. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

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9. The amount paid for the property if purchased within the previous thirty-six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 10. Any listing of the property for sale, rent, prices asked, and offers received, if any within the previous two (2) years.
 11. Any other information the Director may reasonably require in order to determine whether or not the property may yield a reasonable return to the owners.
- C. **Hearing Required.** The Commission shall hold a public hearing on all applications for an Economic Hardship Exception; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.
- D. **Findings.** The Commission shall approve an Economic Hardship Exception if it makes all of the following findings:
1. Denial of the application would decrease the value of the subject property so as to deprive the owner of any reasonable economic return on the property.
 2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.
 3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.
 4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.
- E. **Approval.**
1. Upon approval, copies of the Economic Hardship Exception shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.
 2. Decisions of the Commission regarding an Economic Hardship Exception are subject to appeal in accordance with Section 10.86.230. No Economic Hardship Exception shall become effective until the time to appeal its approval has expired.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.210 Unsafe or dangerous conditions.

- A. None of the provisions of this chapter shall be construed to prevent any construction, alteration, removal, demolition or relocation of a historic landmark or contributing resource necessary to correct the unsafe or dangerous conditions of any structure, or feature, or part thereof, where the Building Official, with a report from a qualified structural engineer or other qualified professional, has declared such condition unsafe or dangerous and the proposed construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section.
 - B. The Building Official shall inform the Commission and Director prior to authorizing any work pursuant to this chapter unless he or she determines that such work is immediately necessary to correct the unsafe or dangerous condition; in which case, the Building Official shall report his or her actions to the Director within forty-eight (48) hours and to the Commission at its next regular meeting.
 - C. If work authorized by the Building Official pursuant to this chapter is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, documentation, and/or salvage of the historic resource or
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contributing resource. Notwithstanding the foregoing, if no arrangements have been made for rehabilitation, relocation, or salvage within sixty (60) days of an order to abate a nuisance, or an earlier time if determined to be necessary by the Building Official, the Building Official may proceed with the abatement action.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.220 Environmental review.

If any action required or taken pursuant to this chapter is subject to the provisions of the California Environmental Quality Act (CEQA), the time in which such action must be taken shall be extended to the extent necessary to allow time to comply with the CEQA.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.230 Appeals.

- A. The owner of a property subject to review, or the applicant, if different than the owner, may appeal any decision by the Director or Commission under this chapter pursuant to the limitations and procedures in Chapter 10.100 of this Code. All appeals brought under this section shall be accompanied by a filing fee established by the Council.
- B. A decision whether to initiate a historic Landmark Designation application in accordance with Section 10.86.080 is not appealable.
- C. Any decision regarding a historic resource by the Director shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the Commission is filed.
- D. Any decision of the Commission regarding a historic resource shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the City Council is filed.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.240 Mills Act Property Tax Abatement Program.

Pursuant to California Government Code Sections 50280—50290 (commonly known as the "Mills Act"), the Council is authorized to enter into Mills Act contracts with the owner of a historic landmark for the purpose of preservation, rehabilitation, and maintenance of designated historic resources, which allow the owner to receive a reduction in property taxes in exchange for a commitment to specific repair, restoration, or rehabilitation improvements and satisfactory maintenance of the property in accordance with the Secretary's Standards and other applicable criteria. The Council shall, by resolution, specify the application process and review procedures for Mills Act contracts.

1. **Qualified Historic Properties.** All individually designated historic landmarks, contributing resources in designated historic districts, and properties that are individually listed in the National Register of Historic Places or the California Register of Historical Resources are eligible for Mills Act contracts, pursuant to the provisions of Article 12, Sections 50280 through 50289, Chapter 1, Part 1, Title 5, of the California Government Code.
2. All Mills Act contracts shall comply with Section 50281 of the California Government Code.
3. **Application Requirements.** All Mills Act applications shall be filed with the City and include the following:
 - a. A description and photographs of the property;
 - b. A copy of the latest grant deed, deed of trust, or title report for the property;
 - c. A rehabilitation plan/maintenance list of the work to be completed within the ten-year contract period, including cost estimates and the year in which the work will be completed;

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- d. A financial analysis form showing current property taxes and estimated taxes for the property under the contract;
 - e. Required fees.
 4. **City Review and Commission Recommendation.** Mills Act applications shall be submitted to the City by no later than June 30 of any given year for consideration. Following the application submittal deadline, the Commission will review all applications. Within 90 days from the beginning of review, the Commission will make recommendations to the Council on the merits of the proposed applications.
 5. **Council Action.** Council may in its sole and absolute discretion authorize or deny the execution of all Mills Act contracts. Approval of contracts shall not require a public hearing.
 6. **Renewal.** A Mills Act contract shall be a perpetual, ten-year contract that automatically renews annually unless and until the property owner/applicant or the City gives written notice to the other that the contract will not be renewed upon the expiration of its current term.
 7. **Cancellation.** A Mills Act contract may be cancelled or modified if the Commission finds, after written notice to the applicant and the property owner, either of the following conditions:
 - a. The owner/applicant is responsible for noncompliance with any terms or conditions of the contract, or any provision in this Chapter; or misrepresentation or fraud was used in the process of obtaining the contract.
 - b. The subject property has been destroyed by fire, earthquake, flooding, or another calamity, or it has been taken by eminent domain.
 8. **Work Plan Amendments.** The contract may provide those alterations to the approved work plan required for review and approval by City staff.
 9. **Mills Act Contract.** The City Attorney shall prepare and maintain a current Mills Act contract template with all required provisions specified by state law and this section, including enforcement and penalties in the event of cancellation.

10.86.245 Other Incentives.

To encourage owners to designate, maintain, preserve, rehabilitate, and improve Historic Landmarks and contributing resources, the City provides the incentives set forth in this section.

A. **Public Recognition.** The Commission may establish a program to publicly recognize Historic Landmarks and, Historic Districts with plaques, signage, and other appropriate forms of recognition.

B. **State Historic Building Code.** The California State Historic Building Code (SBHC) provides alternative building regulations for the preservation, restoration, rehabilitation, or relocation of historic resources. The SHBC shall be used in evaluating any building permit for work affecting a historic resource.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.250 Historic Variance.

Historic Variances from applicable development standards, but not as to permissible uses of a property, may be applied to Historic Landmarks and contributing resources in Historic Districts. The designation as a historic landmark or contributing resource constitutes a property condition for the purposes of determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same district as it pertains to development standards. Procedures and requirements of Chapter 10.84 of this Code and Section A.84 of the Coastal Plan Implementing Ordinance must be followed for the variance process.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.260 Application filing fees.

Before accepting for filing any application described in this chapter, the Director shall charge and collect such administrative fees as may be set by resolution of the Council.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.270 Enforcement and penalties.

- A. Any person who violates a requirement of this Chapter or fails to obey an order issued by the City Council, Commission and/or Director, or fails to comply with a condition of approval of any certificate or permit issued under this chapter, shall be subject to enforcement actions as set forth in Chapter 1.04 of this Code.
- B. In addition to all other remedies available to the City, any alteration or demolition of a historic resource in violation of this chapter is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.
- C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed sixty (60) months from the date the City becomes aware of any alteration or demolition in violation of this chapter, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the Secretary of The Interior's Standards for the Treatment of Historic Properties. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined by the Commission and/or Director shall be imposed as a condition of any subsequent permit for development of the subject property in a manner that is consistent with Secretary of The Interior's Standards for the Treatment of Historic Properties.
- D. The city attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any historic resource demolished, partially demolished, altered, or partially altered in violation of this chapter.
- E. Any person who constructs, alters, removes, or demolishes a designated landmark or contributing resource in a designated historic district without the approval and issuance of a certificate or permit issued pursuant to this chapter may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the Director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.
- F. In addition to any other remedies provided herein, any violation of this chapter may be enforced by civil action brought by the City. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the City may seek as appropriate, one (1) or both of the following remedies:
 - 1. A temporary or permanent injunction, or both;
 - 2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

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Attachment B: Draft Ordinance
(Redline Version of Urgency Ordinance, adopted January 18, 2022)

Title 10 - PLANNING AND ZONING
PART V - —ADMINISTRATIVE REGULATIONS
Chapter 10.86 HISTORIC PRESERVATION

Chapter 10.86 HISTORIC PRESERVATION

10.86.010 Title.

This chapter shall be known as the "Historic Preservation Ordinance" of the City of Manhattan Beach.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.020 Purpose.

The purpose of the Historic Preservation Ordinance is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, objects, sites, and features that represent the City's architectural, cultural, social, historical, and political heritage. The standards and requirements in this chapter are intended to balance historic preservation objectives and property owners' rights. Further, it is the intent and purpose of the Manhattan Beach City Council in passing this chapter to:

- A. Safeguard the City's heritage and small-town beach atmosphere by encouraging the identification, recognition, and protection of landmarks representing significant elements of the City's history and culture;
- B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City's past and small-town beach atmosphere;
- C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to residents and visitors alike, and safeguarding our heritage for future generations;
- D. Encourage public education and voluntary participation in the City's historic preservation program;
- E. Encourage public knowledge, understanding, and appreciation of our cultural, social, and architectural history and heritage;
- F. Preserve diverse and significant architectural styles and property types reflecting phases of the City's history and encourage complementary contemporary design and construction;
- G. Establish criteria for a comprehensive survey of historic resources, as defined by the Public Resource Code Section 5020.1, Section 5024.1, and Section 5024.5, within the boundaries of the City to publicize and periodically update survey results;
- H. Establish a policy and practice of the City that ensures that property owners will be notified of a determination of the potential eligibility of a property for landmark designation; however, no properties will be listed without the property owners' consent;
- I. Adopt incentives that promote the preservation and rehabilitation of historic properties; and
- J. Ensure City compliance with Section 21084.1 of the California Environmental Quality Act which specifies that a project that may cause a substantial adverse change in the significance of historical resources (as defined by the Public Resource Code Section 5020.1, Section 5024.1, and Section 5024.5) is a project that may have a significant effect on the environment.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.030 Definitions.

The following terms when used in this chapter shall have the meaning set forth in this section, unless a different meaning clearly appears from the context:

"Accessory Dwelling Units (ADU)" and "Junior "Accessory Dwelling Units (JADU)" as defined in Chapter 10.74 of this Title

"Addition" means any expansion or increase in floor area or height of a building or structure.

"Alteration" means any act or process that modifies a historic landmark or contributing resource that either: (1) requires a building or other permit and changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the erection, construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes the setting and/or any character-defining feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource, regardless of whether such act or process requires a building or other permit.

"Building Official" means the individual (or his or her designee) so designated by the City, for purposes of implementing Title 9 (Building Regulations) of the Municipal Code.

"Certificate of Appropriateness" means the permit granted on the finding by the Planning Commission or Director is in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties for an application to demolish, alter, or relocate a historic landmark or contributing resource. A ministerial application for Certificate of Appropriateness, approved by the Director, would include all projects defined as a "Minor alteration" or "Negligible alteration". A discretionary application of Certificate of Appropriateness, approved by Planning Commission, would include all projects outside of the scope of Minor and Negligible Alterations and are subject to California Environmental Quality Act (CEQA).

"California Environmental Quality Act (CEQA)" means the California law requiring public agencies to study, document, and consider the potential environmental effects of a proposed action prior to allowing the action to occur. The provisions of CEQA are codified in Public Resources Code Section 21000 et seq., and the State of California CEQA Guidelines, as set forth in the California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.

"Character-defining feature" means the physical elements and characteristics through which a historically significant property expresses its significance. Character-defining features include but are not limited to overall form and massing, materials, finishes, architectural style, decorative detailing, site features and relationship to neighboring properties, landscaping, and interior features.

"Community Development Director" or "Director" means the Community Development Director or his or her designee.

"Contributing resource" (or "contributor") means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is either a separately designated historic landmark or designated as a resource that contributes to the district's historic, cultural, or architectural significance.

"Demolition" means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity.

"Economic Hardship Exception" means the permit granted to a property owner or applicant by the Planning Commission to provide administrative relief due to undue economic hardship on the owner, for a project that does not comply with the Secretary's Standards and is therefore ineligible for a Certificate of Appropriateness.

"Historic district" means a geographic area having a significant concentration, linkage, or continuity of buildings, structures, objects, sites, and other features united historically or aesthetically by plan or physical development that has been designated pursuant to the provisions in this chapter.

"Historic integrity" means a property with the ability to convey its historic or architectural significance as evidenced by the survival of physical characteristics or historic fabric that existed during the historic resource's period of significance. As defined by the National Parks Service and in accordance with the accepted standards of professional preservation practice, historic integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association. A property or area need not possess all seven (7) aspects, but must retain enough to convey the reason for its significance. "Historic landmark" means any building, structure, object, site, sign, area, place, or natural feature designated as a historic landmark pursuant to this chapter.

"Historic resource" means a property listed, nominated, or eligible for listing in the Register of Historic Resources, including Historic Landmarks, Historic Districts, and contributing resources to Historic Districts.

"Improvement" means a physical feature of real property, or any part of such feature.

"Inventory of Historic Resources" means the inventory of buildings, structures, objects, sites, Historic Districts, signs, areas, places, and natural features determined potentially eligible for local landmark listing in the City, prepared and approved in accordance with Section 10.86.050.

"Manhattan Beach Preservation Organization" or "MBPO" means a group comprised of voluntary members of the community, recognized by the City of Manhattan Beach, such as the Manhattan Beach Cultural Heritage Conservancy (MBCHC) or the Manhattan Beach Historical Society, that assists in increasing public awareness and community appreciation of Manhattan Beach history.

"Major alterations" means any work to a property that includes the alteration, removal, or obstruction of character-defining features, elevations, and spaces, or additions to a property that are visible from the public right-of-way.

"Mills Act" means the California state law, Government Code Section 50280, et seq., that allows cities to enter into contracts with the owners of historic structures. Such contracts require a reduction of property taxes in exchange for the continued preservation of the property.

"Minor alterations" means any work to a property that does not include changes/removal of character-defining features. Minor alterations generally includes the following, to the extent they do not include changes/removal of, or do not affect, character-defining features:

- (1) Any removal or change to insignificant exterior features of designated historic resources, including additions, doors, windows, and exterior siding material that are non-original or otherwise lack historic integrity, including paint color; repairs to roofing and foundations;
- (2) Any alteration requiring a permit that does not substantially change the exterior character-defining features of a designated historic resource, including minor additions on secondary facades such as construction, demolition, or alteration of side, rear, and front yard fence, albeit all of which would be subject to the Secretary of the Interior's Standards;
- (3) Ordinary maintenance and repair;
- (4) Landscaping, including sprinkler system work;
- (5) Paving work;
- (6) All alterations that are entirely interior and do not affect the exterior of property, except for interior features that are specifically mentioned as being important in a landmark designation; and
- (7) Replacement of existing screens and awnings with the same or substantially consistent materials, form and shape,
- (8) Any other undertaking of similar scope or scale as determined by the Director.

"Negligible alteration" means any work identified below that is undertaken on any building, structure, object, site, sign, area, place, or natural feature within a historic district but that is a non-contributing resource to that historic district:

- (1) All work that is entirely interior and does not affect the exterior of a designated historic resource, except for interior features that are specifically mentioned as character-defining features in a landmark designation adopted by the City
- (2) Installation of rooftop equipment, including solar panels, not visible from the public right-of-way.
- (3) Re-roofing in a different material that replicates the existing or original roofing.
- (4) Window and door repair to correct deterioration, decay, or damage to existing original windows or doors.
- (5) If original windows and doors are beyond repair, replacement windows and doors matching the appearance of the original windows and doors.
- (6) Repair of existing historic ornament (including, but not limited to, porches, cornices, plaster work, and eaves).
- (7) Any additional ordinary maintenance and repair to correct deterioration, decay, and/or damage to existing Historic material.
- (8) Replacement of a non-historic garage door with one that is compatible in terms of design and material, and minimizes its visual impacts on the character-defining features of the historic resource.
- (9) Seismic upgrades that minimize the alteration of character-defining features of a historic resource.
- (10) Any other undertaking of similar scope or scale as determined negligible by the Director.

"Non-contributing resource" means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is not a contributing resource.

"Ordinary maintenance and repair" means work on a historic resource that (i) does not, by law, require issuance of a permit; (ii) involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (iii) does not involve a change of design, material, or appearance of the property.

"Owner" or "Property Owner" means any person(s), association, partnership, firm, corporation, public entity, or combination thereof, identified as the holder of title of any property.

"Planning Commission" or "Commission" means the Planning Commission of the City of Manhattan Beach.

"Prehistory" refers to the period in history prior to the advent of written records, revealed through archaeological and paleontological discoveries and analysis.

"Qualified professional(s)" shall mean any of the following professions/occupations:

- "Architectural historian" shall refer to an architectural historian who meets the Secretary of the Interior's Professional Qualifications Standards in architectural history, as defined by the National Park Service.
- "Historian" shall refer to a historian who meets the Secretary of the Interior's Professional Qualifications Standards in history, as defined by the National Park Service.
- "Historic architect" shall refer to a licensed architect who meets the Secretary of the Interior's Professional Qualifications Standards in historic architecture, as defined by the National Park Service.
- "Structural engineer" shall refer to any individual registered by the State of California to practice structural engineering and to use the title Structural Engineer pursuant to the State of California Business and Professions Code, Chapter 7, Section 6701. When working with historic buildings and

structures for the City of Manhattan Beach, the Structural Engineer shall have experience in historic preservation.

"Register of Historic Resources" means the register of Historic Landmarks, Historic Districts, and contributing resources to Historic Districts prepared and approved in accordance with the provisions of this chapter.

"Rehabilitation" means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural significance.

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

"Secretary of the Interior's Standards for the Treatment of Historic Properties" or "Secretary's Standards" means both the Standards and the Guidelines developed by the United States Department of the Interior, National Park Service, for the preservation, rehabilitation, restoration, and reconstruction of historic resources.

"Survey" means the process of identifying and gathering information for the assessment of a property's historic and/or cultural significance in accordance with the standards set forth by Public Resources Code Section 5024.1 (g). The resulting list, the Inventory of Historic Resources, would be of resources that have the potential to become historical landmarks, resources or, historic districts.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 4, Ord. 17-0014, eff. September 14, 2017)

10.86.040 Planning Commission.

- A. **Designation of Commission.** The Planning Commission shall have and exercise the powers and perform the duties set forth in this Chapter.
- B. **Powers and Duties.** For the purposes of this Chapter, the Commission shall have the following powers and duties, in addition to any other duties specified in this Chapter:
 - 1. **General Powers.** The Commission shall be an advisory board to the City Council and all City departments and staff on all matters relating to the identification, protection, retention, preservation, and registration of historic resources in the City, as directed by the City Council.
 - 2. **Enumerated Powers.** The Commission shall:
 - a. Administer the provisions of this Chapter;
 - b. Advise the Council in all matters pertaining to historic preservation in the City;
 - c. Compile and maintain for public use and information the Register of Historic Resources;
 - d. Compile, maintain, and periodically update the Inventory of Historic Resources;
 - e. Recommend the designation of and nominate historic landmarks and districts;
 - f. Approve or disapprove in whole or in part applications for certificates of appropriateness and certificates of economic hardship for the demolition, alteration, or relocation of designated landmarks, including individual landmarks, historic districts, sites, and their contributing improvements and natural features;
 - g. Review and comment on the decisions and documents, including but not limited to environmental assessments, Environmental Impact Reports, and Environmental Impact Statements, prepared by the City or other public agencies when such decisions or documents might affect designated or eligible historical resources within the City;

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- h. Participate in, promote, and conduct public informational, educational, and interpretive programs pertaining to historic preservation;
 - i. Recommend and encourage the protection, enhancement, appreciation, and use of properties of historical, cultural, architectural, community or aesthetic value that have not been designated as historical resources but are deserving of recognition at the election of, or with the concurrence of, the property owner on a voluntary basis;
 - j. Review applications and make recommendations to the City Council on Mills Act Tax Abatement program contracts;
 - k. Upon request, make recommendations to the City Council on zoning and general plan amendments related to historic preservation goals and policies; and
 - l. Perform any other functions that may be designated by resolution or action of the City Council.

(§ 3, Ord. 17-0014, eff. September 14, 2017)

Editor's note(s)—Ord. 17-0014, § 1, adopted August 15, 2017, in effect, repealed § 10.86.040 and enacted a new § 10.86.040 as set out herein. Former § 10.86.040 pertained to the historic preservation commission and derived from (§ 8, Ord. 16-0034, eff. March 18, 2016.

10.86.050 Inventory of Historic Resources.

The Commission shall compile, maintain, and periodically update the Inventory of Historic Resources. Upon the request of the City Council, the Commission shall forward a plan to the City Council recommending a comprehensive historic resources survey, completed in compliance with the standards set forth in Public Resources Code Section 5024.1 (g), as it may be amended from time to time, which will provide the baseline data for the inventory. Upon authorization by the City Council, the Commission shall cause completion of the comprehensive historic resources survey. Based upon the results of the survey, the Commission shall compile the inventory. Property owners shall be notified of a determination of the potential eligibility of a property for landmark designation. No properties will be formally proposed for landmark designation without the property owner's consent. The City may encourage the voluntary designation of potential historic resources as landmarks or historic property through an application process.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 4, Ord. 17-0014, eff. September 14, 2017)

10.86.060 Register of Historic Resources.

- A. **Register Established.** There is hereby established the Manhattan Beach Register of Historic Resources, a register of locally designated Historic Landmarks, Historic Districts, and contributing resources to Historic Districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.
- B. **Effect of National or State Designation.** Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is eligible for designation as a historic landmark for purposes of this chapter.
- C. **Prior Designations.** Any historic landmark designated as a culturally significant landmark or as a historic landmark by the City on or before the effective date of the ordinance initially adopting this chapter shall not automatically be designated a historic landmark for purposes of this chapter, but shall require review to determine if the designation is consistent with the provisions of this chapter.
- D. **New Designations.** New designations of Historic Landmarks and Historic Districts can be initiated in accordance with the criteria and procedures set forth in this chapter; and are subject to property owner consent.

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- E. **Designation Runs with the Land.** The designation of a historic landmark, historic district or contributing resource runs with the land, and is not affected by a change of the property owner.
 - F. **Rescission of Designation.** The conditions and process for amendment or rescission of a designation as a historic landmark or district, or of a contributing resource, are described in Section 10.86.130 (Amendment or Rescission of Designation).
 - G. **Determination of Eligibility for Use of a California Environmental Quality Act Categorical Exemption.** Section 15300.2(f) of the State of California Environmental Quality Act (CEQA), guidelines disallows the use of a categorical exemption for a project which causes a substantial adverse change in the significance of a historical resource. The criteria set forth in Sections 10.86.100 and 10.86.160 can be used as the basis for determining if any addition, demolition, alteration, or relocation requested would(i) result in a substantial adverse change in the significance of a historical resource or (ii) is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. .
 - H. Mills Act contracts include the City and property owner's negotiated terms, and are binding for an initial 10 years with automatic yearly extensions and remain in effect when the property is transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract for the duration of the contract period. New owners shall contact the City for the terms of the rights and obligations a Mills Act contract creates.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.070 Designation criteria for Historic Landmarks.

- A. The Council may designate a property, with owner's voluntary consent, as a historic landmark and add it to the Register of Historic Resources if it meets the requirements of paragraphs B, C, and D of this section.
- B. In order to be eligible for consideration as a landmark, a property must be at least 75 years old. A historic property less than 75 years of age may qualify for local listing if the Director, Commission, and/or City Council determine that the resource is of exceptional architectural, cultural, social, and/or historical importance to the City, as verified by a qualified architectural historian or historian.
- C. Historic landmarks must retain integrity from their period of significance, as determined by a qualified architectural historian or historian. A proposed landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its historic, cultural, or architectural significance.
- D. Historic landmarks must meet at least one of the following criteria:
 - 1. It is or was once associated or identified with important events or broad patterns of development that have made a significant contribution to the social, political, cultural, or architectural history of the city, region, state, or nation.
 - 2. It is or was once associated with an important person or persons who made a significant contribution to the history, development, and/or culture of the city, region, state, or nation.
 - 3. It embodies the distinctive characteristics of a style, type, period, or method of construction.
 - 4. It represents the work of a master, or possesses high artistic or aesthetic values.
 - 5. It represents the last, best remaining example of an architectural type or style in a neighborhood or the city that was once common but it [is] increasingly rare.
 - 6. It has yielded or has the potential to yield information important to the prehistory or history of the city, region, state, or nation.

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- E. Neither the deferred maintenance of a proposed landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility under the appropriate criteria and theme of significance.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.080 Designation procedures—Historic landmarks.

- A. **Application.** The City Council, Planning Commission, Director, a MBPO, or the owners of the subject property or their authorized agents, may apply for historic Landmark Designation. In the event the City or the MBPO initiates the application, the Director shall oversee and cause the completion of the required application with owner consent.
- B. **Required Information.** All applications shall be made on a form prescribed by the Director and shall include the following data:
1. The assessor's parcel number and legal description of the site.
 2. A description of the historic property and statement of how it qualifies under the criteria described in Section 10.86.070, including the period of significance.
 3. A detailed architectural description, enumerating the property's character-defining features, elevations, and spaces.
 4. Construction chronology of the property, including history of major alterations/additions.
 5. Ownership history.
 6. A statement of significance describing why and how the property or feature meets the eligibility criteria of the Code including the area of significance, theme, and period of significance.
 7. Current photographs and (if available) historic photographs, maps, plans, sketches, drawings, deeds, permits, or other descriptive material as available to support the nomination's historic integrity and period of significance that conveys the reason for their significance.
 8. The signature of the property owner(s) or their authorized agents (owner consent).
 9. Such other information as requested by the Commission or Director.
- C. **Evaluation.** Within 60 days after the date a designation application is deemed complete, the Director shall prepare, or cause to be prepared, a historic resources evaluation to determine the eligibility of the property and to document all potentially historic features of the subject property, including the character defining features, and prepare a report to the Commission. The evaluation shall be conducted by a qualified architectural historian or historian.
- D. **Commission Review and Recommendation.** The Commission shall conduct a public hearing on the application. After the close of the hearing, the Commission shall adopt a resolution recommending to the Council the approval, conditional approval, or denial of the application.
- E. **Council Determination.** After receiving the Commission's recommendation, the Council shall conduct a public hearing on the landmark nomination application. The Council shall adopt a resolution approving, conditionally approving, or denying the application. If the Council has not taken action on the application within 150 days of the Commission's recommendation, or within 150 days after the date the application was deemed to have been forwarded to the Council without recommendation, then the application shall be deemed denied. The Council shall not approve or conditionally approve the Landmark Designation absent owner consent.
- F. **Designation.**

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1. Upon designation by the Council, the Director shall forward a copy of the resolution approving the designation of a historic landmark to any department or agency that the Director deems appropriate, and shall record or cause to be recorded the location, characteristics, and significance of the historic landmark on a California Department of Parks and Recreation Historic Resources Inventory Form 523, or current equivalent form, in accordance with the practices specified by the State Office of Historic Preservation for the recordation of historic resources.
 2. A designated historic landmark may be identified by a marker, created or designed by the owner and approved by the City pursuant to the Sign Code, Chapter 10.72 of the City's municipal code, but such a marker is not required.

G. Withdrawal.

1. A property owner who has signed an application for the designation of his/her property for a historic landmark may withdraw such consent by filing a written notice of withdrawal with the city clerk at any time prior to the close of the public hearing thereon before the planning commission or before the city council.

(§ 8, Ord. 16-0034, eff. March 18, 2016 and § 2, Ord. 17-0014, eff. September 14, 2017)

10.86.090 Owner consent for Landmark Designation.

The City shall not designate any landmark without property owner's consent.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.100 Designation criteria for Historic Districts.

- A. In addition to satisfying the criteria in Section 10.86.070 (where applicable), when recommending the approval of the nomination of a historic district, the Commission must also find:
 1. That the historic district is an identifiable and distinct entity with clear boundaries and that it possesses a significant concentration of buildings, structures, and related features sharing common historical, visual, aesthetical, cultural, archaeological, or architectural plan or physical development; and
 2. That the historic district retains integrity from its period of significance as determined by a qualified architectural historian or historian. Not all properties or features within a proposed district need to retain all seven aspects of integrity (location, design, setting, materials, workmanship, feeling, and association), but a substantial number of such properties and structures must retain sufficient integrity to convey the historic, cultural, or architectural significance of the district.
- B. The components of an eligible historic district may lack individual distinction but still represent a significant and distinguishable entity that meets eligibility criteria.
- C. Neither deferred maintenance within a proposed district nor the dilapidated condition of its constituent buildings and landscapes shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility under the appropriate criteria and theme of significance.
- D. As part of the City's review, a survey and survey documentation for a historical resource and historic district designated or listed as a historic landmark, historic property, or district, pursuant to Public Resource Code 5024(g) (4), will be prepared in accordance with the OHP procedures and requirements and will be evaluated to have a significant rating of Category 1 to 5 on a Department of Parks & Recreation (DPR) Form 523.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.110 Designation procedures—Historic districts.

- A. **Applicable Historic Landmark Procedures.** Procedures for the application and designation of Historic Districts, including the time limits specified in paragraphs C, D, and E of Section 10.86.080, shall be the same as those applicable to Historic Landmarks, except as modified by this section. If, prior to an application for designation of a historic district being deemed complete, the Director requests additional information, the applicant shall have sixty (60) days to submit the requested information. If the applicant fails to submit the requested information within that sixty (60) day period the application shall be administratively withdrawn. The applicant for the Historic District designation may request a suspension of the schedule to address an unforeseen change in circumstances or information that was not known at the time of the original application. In that event, no further action shall be taken on the proposed district until a new application is submitted.
- B. **Applications.** In addition to all other information and materials described in paragraph B of Section 10.86.080 (which information shall be provided for each proposed contributing resource), all applications for designation of Historic Districts shall include a depiction of the proposed district that includes a clear and distinct description of its boundaries and a report prepared by a qualified professional describing all contributing and non-contributing resources within the district.
- C. **Petition Required.** Prior to the hearing before the Commission, a petition in support of the application, that is signed by at least sixty percent (60%) of the owners of the parcels within the proposed district, must be submitted to the Director. For purposes of the petition requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the sixty percent (60%) required.
- D. **Commission and Council Action.**
1. Whenever the Council designates a historic district, it shall also adopt: (1) a written description and clear depiction of the district boundaries; and (2) a detailed report that identifies and describes period of significance, the contributing resources and elements of the district, as well as those resources and elements that are not contributing resources.
 2. The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new construction, alterations and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. Any such guidelines require Council approval.
 3. The written consent of a minimum of sixty percent (60%) of the owners of the parcels within the proposed district must be obtained and submitted to the Director in order for the district to be designated. For purposes of this consent requirement, each parcel must have the signatures of all of the owners of that property but only one (1) signature shall be counted per parcel for purposes of calculating the sixty percent (60%) required.
 4. At any time prior to designation of the historic district by the City Council, a property owner may elect not to be included with the proposed district, by written notice to the Director. The property of the person so notifying the Director shall not be included within the proposed district.
- E. **Reevaluation of Surveys for Eligibility.** Per PRC 5024.1(g) (4), if the survey is five or more years old at the time of its nomination for a historic district, the survey is updated to identify the following:
1. Resources which have become eligible or ineligible due to change in circumstances or the existence of further documentation of the resource
 2. Resources which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

F. **Consideration for Eligibility for Listing in California Register of Historical Resources.** Where the City believes that a Historic District is eligible for listing on the California Register of Historical Resources, and with the consent of 100% of the affected properties, the City may submit the Historic Property Survey Report to the California Office of Historic Preservation for consideration and evaluation for listing.

G. **Withdrawal.**

1. A property owner who has signed an application for inclusion of his/her property in a proposed historic district may withdraw such consent by filing a written notice of withdrawal with the city clerk at any time prior to the close of the public hearing thereon before the Planning Commission or before the City Council. (§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.120 Owner consent for inclusion as contributing element to Historic District.

Notwithstanding Section 10.86.110. D.3, the City shall not designate a property as a contributing element to a historic district without owner's consent.

10.86.130 Amendment or rescission of designation.

A. **Criteria for Rescission.** Once a historic landmark, historic district, or contributing resource is so designated, the designation shall not be repealed by the City Council unless it is determined that: (1) the evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or (2) the historic landmark, historic district, or contributing resource no longer meets the criteria for designation under Section 10.86.070 or 10.86.110. The City's Inventory of Historic Resources shall be updated due to changed circumstances with documentation for those which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

B. **Amendment or Rescission.** The Council may amend or rescind the designation of any designated historic landmark, historic district, or contributing property to a historic district in the same manner that is followed for designation. C. **Rescission: Substantial Destruction.**

1. In the event of substantial destruction of a landmark or historic district, the owner(s) of the parcels may apply for removal of designation. The Commission or Council may also initiate removal in such circumstances. The removal of a designation for this reason shall be processed and decided in the same manner as designations as set forth in this chapter, with the additional requirement that the determination of substantial destruction shall be set forth in the findings of the Commission.
2. Destruction or removal of a landmark following a natural disaster shall result in the automatic removal of the landmark designation.
3. Once a landmark or historic district designation has been removed, affected properties shall no longer be subject to any provision or regulation of this chapter.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.140 Duty to maintain historic resources.

Every owner of a historic landmark or contributing resource to a historic district shall maintain and keep such resources in good repair, in a manner that clearly ensures the continued availability of such premises for lawful and reasonable uses, and which prevents deteriorating, dilapidation and decay of any portion of such resource.

(§ 8, Ord. 16-0034, eff. March 18, 2016) 10.86.145 Accessory Dwelling Units and Junior Accessory Dwelling Units.

Accessory Dwelling Units and Junior Accessory Dwelling Units under conditions specified in the law, are permitted on a historic property, in a historic district, or in a contributing resource with historic significance. Per

Government Code Section 65852.2, objective standards including, but not limited to, design, development, and historic standards will apply on said accessory dwelling units. Parking standards shall not be imposed for an ADU where the ADU is located with an architecturally and historically significant property or district. These objective standards are applied to prevent the adverse impacts on any real property that is listed in the California Register of Historic Resources. Approval of accessory dwelling units are a ministerial action and will require a permit application for the construction of an accessory dwelling unit.

10.86.150 Certificate of Appropriateness—Requirement.

A Certificate of Appropriateness is required when the owner is seeking a permit for an addition to, demolition of, alteration of, or relocation of any historic resource listed on the National Register of Historic Places, listed on the California Register of Historical Resources, designated as a historic landmark by the City, or designated as a contributor to a designated historic district. The Planning Commission shall take reasonable measures to ensure historic resources are not inadvertently or unnecessarily destroyed and explore all alternatives to their demolition. The full demolition of a historic landmark or contributing resource is considered a discretionary permit and subject to the California Environmental Quality Act (CEQA) and Permit Streamlining Act. Therefore, a demolition permit shall not be issued until the requirements of this Section have been met. Per CEQA guidelines, where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

- A. **Certificate Required.** No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any resource listed on the National Register of Historic Places, listed on the California Register of Historical Resources, designated as a historic landmark by the City, or designated as a contributor to a designated historic district unless the City has first issued a Certificate of Appropriateness in accordance with the requirements of this chapter. See also Section 10.86.180 regarding pending applications.
- B. **Exemptions.** A Certificate of Appropriateness shall not be required for ordinary maintenance or repair or minor alterations or for projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance of the property.
- C. **Administrative Review.** A Certificate of Appropriateness may be issued by the Director for work that constitutes a “negligible alteration” or a “minor alteration” and requires issuance of a permit but does not involve a change of design, material, or appearance to character-defining features, nor the removal or obstruction of a character-defining feature, of a designated historic landmark or contributing property of a designated historic district. In addition, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the following types of alterations:
 - 1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.
 - 2. Addition or deletion of awnings, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.
 - 3. Minor additions of square footage (one hundred fifty (150) square feet or less), as determined by the Director, where such additions are on the rear elevation and not visible from the public right-of-way and would not remove, change, or obstruct any of the property's character-defining features.
 - 4. Alterations previously identified in an adopted design guidelines plan for a historic district and designated in such guidelines for review through the plan check process and approved accordingly.
- D. **Commission Review.** Applications for a Certificate of Appropriateness for work that does not qualify for administrative review pursuant to paragraph C of this Section 10.86.150 shall be referred to the Commission.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.160 Certificate of Appropriateness—Procedures.

- A. **Application.** An application for a Certificate of Appropriateness shall be filed with the Community Development Department upon the prescribed form and shall contain the following data:
1. A description of the proposed work and an explanation of how it is compatible with the Secretary's Standards and other applicable standards as appropriate by a qualified professional.
 2. Detailed architectural plans, including floor plans and scaled elevations and drawings, illustrating the scale, massing, and appearance of the proposed work, including existing and proposed elevations and plans. Information on the specifications and appearance of existing and proposed replacement materials and features should also be included.
 3. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment.
 4. Relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage, for new construction in Historic Districts.
 5. Other information deemed necessary by the Director.
- B. **Commission Review.** The Commission shall conduct a public hearing on the application, after which it shall adopt a resolution approving, conditionally approving, or denying the application.
- C. **Administrative Review.** Notwithstanding the previous paragraph, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the minor alterations described in Section 10.86.150(C). The following considerations shall guide the review and issuance of certificates of appropriateness at the administrative review level:
1. If the Director determines that the proposed work would not result in a change of design, material, or appearance of the property's character-defining features, and all elements of the project comply with the Secretary's Standards, the Director shall approve the Certificate of Appropriateness.
 2. If the Director determines that the proposed work may result or would result in a change of design, material, or appearance of the property's character-defining features, or has the potential to conflict with the Secretary's Standards, the Director may deny the Certificate of Appropriateness or refer the Certificate of Appropriateness to the Commission for review.
- D. **Findings Required.** No Certificate of Appropriateness may be approved by either the Commission or Director unless the findings specified in Section 10.86.170 are made, or an Economic Hardship Exception is approved pursuant to Section 10.86.200.
- E. **Issuance of Certificate.** Upon approval, copies of the Certificate of Appropriateness shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.
- F. **Appeal.** Decisions of the Director and Commission regarding a Certificate of Appropriateness are subject to appeal in accordance with Section 10.86.230. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.
- G. **Expiration of Certificate of Appropriateness.** A Certificate of Appropriateness shall lapse and become void eighteen (18) months (or a shorter period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the certificate has commenced prior to such expiration date and is diligently pursued for completion. Upon request of the property owner, a Certificate of Appropriateness may be extended by the Director for an additional period of up to twelve (12) months. The Director may approve, approve with conditions, or deny any request for extension.
- H. **Revocation of Certificate of Appropriateness.** A Certificate of Appropriateness may be revoked or modified for reasons of (1) noncompliance with any terms or conditions of the Certificate; (2) noncompliance with any

provisions of this Chapter; or (3) a finding of fraud or misrepresentation used in the process of obtaining the Certificate. Revocation proceedings may be initiated by motion of the original approving body. Once revocation proceedings have been initiated, all work being done in reliance upon such Certificate or associated permits shall be immediately suspended until a final determination is made regarding the revocation. The decision to revoke a Certificate of Appropriateness shall be made by the original approving body, in the original process of proceedings with written notice provided to the property owner at least ten days prior thereto. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Planning Commission or City Council, whichever is the next governing body. (§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.170 Certificates of appropriateness—Findings.

- A. **Standard Findings.** A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, makes all of the following findings:
1. The project will not cause a substantial adverse change in the significance of an historic landmark or contributing resource in accordance with the California Environmental Quality Act.
 2. The project is consistent with the provisions of this chapter.
 3. The project is consistent with the Secretary's Standards and any applicable design guidelines adopted by the City.
- B. **Additional Findings for Demolitions.** In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic landmark or contributing resource, all of the following additional findings must be made.
1. The mandatory sixty (60) day waiting period has expired.
 2. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.
 3. Restoration or rehabilitation would require extensive alterations that would render the resource infeasible of preservation.
 4. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.
 5. The deterioration of the historic landmark or contributing resource is not the result of the failure of the owner to maintain the property in accordance with Section 10.86.140.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.180 Work moratorium.

- A. **Moratorium—Pending Historic Landmark Designation.** Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity on a proposed historic landmark while a submitted application for designation is pending, without first having obtained a Certificate of Appropriateness, if the activity is one for which a Certificate of Appropriateness would be required for a historic landmark.
- B. **Moratorium—Pending Historic District Designation.** Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness for any proposed contributing resource within the boundaries of a proposed historic district while a submitted application for designation is pending, without first having obtained a Certificate of Appropriateness, if the activity is one for which a Certificate of Appropriateness would be required for a contributing resource.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.190 Sixty (60) day waiting period for demolition.

Applications for a Certificate of Appropriateness for demolition of a historic landmark and contributing resource shall be subject to a sixty (60) day waiting period. During this period, the Director shall post a notice of the pending demolition permit in a location on the property that is visible from the nearest street (or in a similarly visible location adjacent to the property) and shall explore alternatives to demolition, including adaptive re-use and/or rehabilitation in accordance with the Secretary's Standards, application of the State Historic Building Code to allow for flexibility in code requirements in cases of adaptive reuse or rehabilitation, possible use of financial incentives such as the Mills Act Tax Abatement program, relocation, resale, or other provisions as appropriate.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.200 Economic Hardship Exception.

- A. **Certificate.** The Commission may issue an Economic Hardship Exception to allow alteration or demolition of a historic landmark or contributing resource where denial of a Certificate of Appropriateness would create an undue hardship upon the owner.
- B. **Applications.** An application for an Economic Hardship Exception shall be filed either concurrently with, or after, filing the related application for a Certificate of Appropriateness. An application for an Economic Hardship Exception shall be made on the prescribed form and be accompanied by the following information, unless any such information is determined by the Director not to be applicable:
 - 1. The estimated market value of the property in its current condition with supporting documentation.
 - 2. The estimated market value of the property after completion of the proposed alteration or demolition with supporting documentation.
 - 3. Estimates of the costs of proposed alteration or demolition with supporting documentation.
 - 4. In the case of demolition, the estimated market value of the property after renovation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 - 5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 - 6. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.
 - 7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.
 - 8. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 - 9. The amount paid for the property if purchased within the previous thirty-six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 - 10. Any listing of the property for sale, rent, prices asked, and offers received, if any within the previous two (2) years.
 - 11. Any other information the Director may reasonably require in order to determine whether or not the property may yield a reasonable return to the owners.

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- C. **Hearing Required.** The Commission shall hold a public hearing on all applications for an Economic Hardship Exception; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.
- D. **Findings.** The Commission shall approve an Economic Hardship Exception if it makes all of the following findings:
1. Denial of the application would decrease the value of the subject property so as to deprive the owner of any reasonable economic return on the property.
 2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.
 3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.
 4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.
- E. **Approval.**
1. Upon approval, copies of the Economic Hardship Exception shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.
 2. Decisions of the Commission regarding an Economic Hardship Exception are subject to appeal in accordance with Section 10.86.230. No Economic Hardship Exception shall become effective until the time to appeal its approval has expired.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.210 Unsafe or dangerous conditions.

- A. None of the provisions of this chapter shall be construed to prevent any construction, alteration, removal, demolition or relocation of a historic landmark or contributing resource necessary to correct the unsafe or dangerous conditions of any structure, or feature, or part thereof, where the Building Official, with a report from a qualified structural engineer or other qualified professional, has declared such condition unsafe or dangerous and the proposed construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section.
- B. The Building Official shall inform the Commission and Director prior to authorizing any work pursuant to this chapter unless he or she determines that such work is immediately necessary to correct the unsafe or dangerous condition; in which case, the Building Official shall report his or her actions to the Director within forty-eight (48) hours and to the Commission at its next regular meeting.
- C. If work authorized by the Building Official pursuant to this chapter is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, documentation, and/or salvage of the historic resource or contributing resource. Notwithstanding the foregoing, if no arrangements have been made for rehabilitation, relocation, or salvage within sixty (60) days of an order to abate a nuisance, or an earlier time if determined to be necessary by the Building Official, the Building Official may proceed with the abatement action.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.220 Environmental review.

If any action required or taken pursuant to this chapter is subject to the provisions of the California Environmental Quality Act (CEQA), the time in which such action must be taken shall be extended to the extent necessary to allow time to comply with the CEQA .

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.230 Appeals.

- A. The owner of a property subject to review, or the applicant, if different than the owner, may appeal any decision by the Director or Commission under this chapter pursuant to the limitations and procedures in Chapter 10.100 of this Code. All appeals brought under this section shall be accompanied by a filing fee established by the Council.
- B. A decision whether to initiate a historic Landmark Designation application in accordance with Section 10.86.080 is not appealable.
- C. Any decision regarding a historic resource by the Director shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the Commission is filed.
- D. Any decision of the Commission regarding a historic resource shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the City Council is filed.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.240 Mills Act Property Tax Abatement Program.

Pursuant to California Government Code Sections 50280—50290 (commonly known as the "Mills Act"), the Council is authorized to enter into Mills Act contracts with the owner of a historic landmark for the purpose of preservation, rehabilitation, and maintenance of designated historic resources, which allow the owner to receive a reduction in property taxes in exchange for a commitment to specific repair, restoration, or rehabilitation improvements and satisfactory maintenance of the property in accordance with the Secretary's Standards and other applicable criteria. The Council shall, by resolution, specify the application process and review procedures for Mills Act contracts.

- 1. **Qualified Historic Properties.** All individually designated historic landmarks, contributing resources in designated historic districts, and properties that are individually listed in the National Register of Historic Places or the California Register of Historical Resources are eligible for Mills Act contracts, pursuant to the provisions of Article 12, Sections 50280 through 50289, Chapter 1, Part 1, Title 5, of the California Government Code.
- 2. All Mills Act contracts shall comply with Section 50281 of the California Government Code.
- 3. **Application Requirements.** All Mills Act applications shall be filed with the City and include the following:
 - a. A description and photographs of the property;
 - b. A copy of the latest grant deed, deed of trust, or title report for the property;
 - c. A rehabilitation plan/maintenance list of the work to be completed within the ten-year contract period, including cost estimates and the year in which the work will be completed;
 - d. A financial analysis form showing current property taxes and estimated taxes for the property under the contract;
 - e. Required fees.

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4. **City Review and Commission Recommendation.** Mills Act applications shall be submitted to the City by no later than June 30 of any given year for consideration. Following the application submittal deadline, the Commission will review all applications. Within 90 days from the beginning of review, the Commission will make recommendations to the Council on the merits of the proposed applications.
 5. **Council Action.** Council may in its sole and absolute discretion authorize or deny the execution of all Mills Act contracts. Approval of contracts shall not require a public hearing.
 6. **Renewal.** A Mills Act contract shall be a perpetual, ten-year contract that automatically renews annually unless and until the property owner/applicant or the City gives written notice to the other that the contract will not be renewed upon the expiration of its current term.
 7. **Cancellation.** A Mills Act contract may be cancelled or modified if the Commission finds, after written notice to the applicant and the property owner, either of the following conditions:
 - a. The owner/applicant is responsible for noncompliance with any terms or conditions of the contract, or any provision in this Chapter; or misrepresentation or fraud was used in the process of obtaining the contract.
 - b. The subject property has been destroyed by fire, earthquake, flooding, or another calamity, or it has been taken by eminent domain.
 8. **Work Plan Amendments.** The contract may provide those alterations to the approved work plan required for review and approval by City staff.
 9. **Mills Act Contract.** The City Attorney shall prepare and maintain a current Mills Act contract template with all required provisions specified by state law and this section, including enforcement and penalties in the event of cancellation.

10.86.245 Other Incentives.

To encourage owners to designate, maintain, preserve, rehabilitate, and improve Historic Landmarks and contributing resources, the City provides the incentives set forth in this section.

- A. **Public Recognition.** The Commission may establish a program to publicly recognize Historic Landmarks and, Historic Districts with plaques, signage, and other appropriate forms of recognition.
- B. **State Historic Building Code.** The California State Historic Building Code (SBHC) provides alternative building regulations for the preservation, restoration, rehabilitation, or relocation of historic resources. The SHBC shall be used in evaluating any building permit for work affecting a historic resource.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.250 Historic Variance.

Historic Variances from applicable development standards, but not as to permissible uses of a property, may be applied to Historic Landmarks and contributing resources in Historic Districts. The designation as a historic landmark or contributing resource constitutes a property condition for the purposes of determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same district as it pertains to development standards. Procedures and requirements of Chapter 10.84 of this Code and Section A.84 of the Coastal Plan Implementing Ordinance must be followed for the variance process.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.260 Application filing fees.

Before accepting for filing any application described in this chapter, the Director shall charge and collect such administrative fees as may be set by resolution of the Council.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

10.86.270 Enforcement and penalties.

- A. Any person who violates a requirement of this Chapter or fails to obey an order issued by the City Council, Commission and/or Director, or fails to comply with a condition of approval of any certificate or permit issued under this chapter, shall be subject to enforcement actions as set forth in Chapter 1.04 of this Code.
- B. In addition to all other remedies available to the City, any alteration or demolition of a historic resource in violation of this chapter is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.
- C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed sixty (60) months from the date the City becomes aware of any alteration or demolition in violation of this chapter, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the Secretary of The Interior's Standards for the Treatment of Historic Properties. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined by the Commission and/or Director shall be imposed as a condition of any subsequent permit for development of the subject property in a manner that is consistent with Secretary of The Interior's Standards for the Treatment of Historic Properties.
- D. The city attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any historic resource demolished, partially demolished, altered, or partially altered in violation of this chapter.
- E. Any person who constructs, alters, removes, or demolishes a designated landmark or contributing resource in a designated historic district without the approval and issuance of a certificate or permit issued pursuant to this chapter may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the Director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.
- F. In addition to any other remedies provided herein, any violation of this chapter may be enforced by civil action brought by the City. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the City may seek as appropriate, one (1) or both of the following remedies:
 - 1. A temporary or permanent injunction, or both;
 - 2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

(§ 8, Ord. 16-0034, eff. March 18, 2016)

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Chapter 10.86 HISTORIC PRESERVATION

10.86.010 Title.

No change.

10.86.020 Purpose.

Updated with relevant Government Code Sections, as well as added H – to establish property owner consent and J - for compliance with CEQA requirements.

10.86.030 Definitions.

Added the following new definitions:

- "Accessory Dwelling Units (ADU)" and "Junior "Accessory Dwelling Units (JADU)"
- "Addition"
- "Certificate of Appropriateness"
- "California Environmental Quality Act (CEQA)"
- "Improvement"
- "Mills Act"
- "Minor alterations"
- "Negligible alteration"
- "Owner"
- "Survey"

Removed the following definitions:

- "Conservation District"
- "Property Owner"

10.86.040 Planning Commission.

Updated to add voluntary basis of nomination and designation.

10.86.050 Inventory of Historic Resources.

Updated to add voluntary basis of eligibility for being listed on the City's Inventory of Historic Resources.

10.86.060 Register of Historic Resources.

Updated and added language for general property owner consent, and G- for compliance with CEQA as it relates to a historic resource, and added H – to establish Mills Act contract applicability and responsibility.

10.86.070 Designation criteria for Historic Landmarks.

Updated to add voluntary basis and that the eligible property must be at least 75 years of age.

10.86.080 Designation procedures—Historic landmarks.

Updated the requirements for period of significance and owner consent for designation, voluntary designation language and designation markers; and added G - application withdrawal process for historic landmark designations.

10.86.090 Owner consent for Landmark Designation.

Updated to clarify owner consent.

10.86.100 Designation criteria for Historic Districts.

Added D - to provide Office of Historic Preservation regulations and standards typically applicable to historic districts.

10.86.110 Designation procedures—Historic districts.

Updated the requirements for period of significance and owner consent for designation; and added E - reevaluation of historic survey thresholds, F - voluntary designation language, and G - application withdrawal process for historic district designations.

10.86.120 Conservation districts

Removed from ordinance, as the number of qualifying properties in the City that would meet the criteria are insufficient.

10.86.120 Owner consent for Inclusion as Contributing Element to Historic District.

Added new section to clarify owner consent.

10.86.130 Amendment or rescission of designation.

Updated to include reevaluation of historic inventory survey; and added C - rescission of designation due to substantial destruction.

10.86.140 Duty to maintain historic resources.

No change.

10.86.145 Accessory Dwelling Units and Junior Accessory Dwelling Units.

Added section to explain applicability of ADU/ JADU on historic properties under State Law.

10.86.150 Certificate of Appropriateness—Requirement.

Added an introduction and updated language on the applicability of administrative reviews.

10.86.160 Certificate of Appropriateness—Procedures.

Added requirement for qualified professional and G- the expiration process and H - revocation process of Certificate of Appropriateness.

10.86.170 Certificates of appropriateness—Findings.

No change.

10.86.180 Work moratorium.

No change.

10.86.190 Sixty (60) day waiting period for demolition.

No change.

10.86.200 Economic Hardship Exception.

No change.

10.86.210 Unsafe or dangerous conditions.

No change.

10.86.220 Environmental review.

Added abbreviation for California Environmental Quality Act “CEQA”.

10.86.230 Appeals.

No change.

10.86.240 Mills Act Property Tax Abatement Program.

Added to include the process regarding the application, fees, and responsible parties.

10.86.245 Other Incentives.

Updated with new provisions for public recognition and State Historic Building Code incentives.

10.86.250 Historic Variance.

Updated to clarify variance applicability.

10.86.260 Application filing fees.

No change.

10.86.270 Enforcement and penalties.

Minor update to provide clarity on mitigation measures that are consistent with State law.