

ORDINANCE NO. 16-0034

**ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING CHAPTER 10.86 (HISTORIC
PRESERVATION), TITLE 10 (PLANNING AND ZONING)
OF THE MANHATTAN BEACH MUNICIPAL CODE
(MBMC) TO ESTABLISH PROVISIONS FOR THE
PRESERVATION OF HISTORIC RESOURCES**

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. The City has initiated amendments to the Manhattan Beach Municipal Code to establish provisions for the preservation of historic resources.

Section 2. On April 29, 2015, the Planning Commission conducted a duly noticed public hearing regarding the proposed Code Amendments, and following the receipt of public testimony, closed the hearing. The Planning Commission again reviewed the draft Code Amendments on June 10, 2015, and again on September 23, 2015. On September 23, 2015 the Planning Commission adopted Resolution No. 15-06, recommending that the City Council adopt the proposed Code Amendments to establish provision for the preservation of historic resources.

Section 3. On January 5, 2016, the City Council held a duly noticed public hearing regarding the proposed Code Amendments, and following receipt of all public testimony, closed the hearing.

Section 4. CEQA. Pursuant to the California Environmental Quality Act (“CEQA”), and the City’s local CEQA Guidelines, the Planning Commission found that adoption of the proposed amendments is exempt from the requirements of the California Environmental Quality Act, pursuant to the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 5. The Planning Commission found that the proposed amendments will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Section 6. The proposed amendments are consistent with the following General Plan Goals and Policies:

Goal LU-1: Maintain the low-profile development and small town atmosphere of Manhattan Beach.

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood’s unique characteristics.

Policy LU-4.4: Encourage the preservation and enhancement of unique residential homes and buildings throughout Manhattan Beach to preserve the culture and history of the City.

Policy LU-4.5: Encourage measures that recognize and work to protect buildings, landscaping, and other features important to the City's history.

Policy LU-4.6: When public improvements are made, they should preserve and maintain distinctive neighborhood characteristics.

Section 7. The proposed amendments are consistent with the following Local Coastal Program policies:

Policy II.B.1: Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.

Section 8. Chapter 10.86 (Culturally Significant Landmarks) of the Municipal Code is hereby deleted and replaced with the following:

“Chapter 10.86 HISTORIC PRESERVATION

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10.86.270 Enforcement and Penalties.

10.86.010 Title.

This Chapter shall be known as the “Historic Preservation Ordinance” of the City of Manhattan Beach.

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 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 within the boundaries of the City and publicize and periodically update survey results; and

H. Adopt incentives that promote the preservation and rehabilitation of historic properties.

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:

“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 Historic Preservation Commission or Director that an application to demolish, alter, or relocate a historic resource as defined by this ordinance is in accordance with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties* and other applicable criteria as provided in this Chapter.

“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.

“Conservation District” means an area that contains, within defined geographic boundaries, buildings, structures, sites, objects, or natural features with unifying characteristics or qualities. A conservation district might not retain sufficient integrity to qualify as a historic district, but it is of interest to local planning due to its concentration of related properties and features.

“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 Historic Preservation 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 retaining enough of the important physical characteristics from its period of significance that it can still convey the reasons for its 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.

“Historic Landmark” means any building, structure, object, site, sign, area, place, or natural feature designated as a historic landmark pursuant to this Chapter.

“Historic Preservation Commission” or “Commission” means the Historic Preservation Commission established 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.

“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.

“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) paint color; (2) roofing; (3) repairs to foundations; (4) construction, demolition, or alteration of side, rear, and front yard fences; (5) ordinary maintenance and repair; (6) landscaping, including sprinkler system work; (7) paving work; (8) 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 (9) replacement of existing screens and awnings with the same or substantially consistent materials, form and shape.

“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.

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

“Property Owner” or “Owner” means the person or persons appearing as the owner of the improvement, natural feature or site on the last equalized assessment roll of the County of Los Angeles.

“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.

10.86.040 Historic Preservation Commission.

A. Establishment of Commission. There is hereby created the Manhattan Beach Historic Preservation Commission. The Commission shall have and exercise the powers and perform the duties set forth in this Chapter. Except as otherwise specified in this Chapter, the Commission shall be subject to the provisions of Chapter 2.44 of this Code.

B. Composition and Appointment of Members. Commissioners shall be appointed pursuant to Chapter 2.44 of this Code. All members shall have an expressed special interest, experience, or knowledge of the history, architecture, or cultural heritage of the City.

At least two members shall be chosen from among professionals in the disciplines of architecture, history, planning, land economics, real estate or a related discipline, to the extent that such professionals are available in the community.

C. Meetings and Record of Proceedings. The Commission shall meet at least quarterly. All meetings of the Commission shall be open to the public and held in compliance with the provisions of the state’s Ralph M. Brown Act. The Commission shall keep a record of minutes of all of its proceedings and actions, which shall be available for public inspection.

D. Powers and Duties. 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, Planning Commission, 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;

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;

j. Review applications and make recommendations to the City Council on Mills Act Tax Abatement program contracts;

k. Upon request, make recommendations to the Planning Commission 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. Secretary. The Director shall act as Secretary of the Commission and shall be custodian of its records, conduct official correspondence, and generally coordinate the clerical and technical work of the Commission in administering this Chapter.

4. Subcommittee. In order to permit the Commission flexibility in performing its duties in as efficient a manner as possible, the Commission may adopt criteria under which a subcommittee of the full Commission may implement and administer the policies of the Commission on a case-by-case basis.

10.86.050 Inventory of Historic Resources.

The Commission shall compile, maintain, and periodically update the Inventory of Historic Resources. Within six months of the Commission's first meeting, the Commission shall forward a plan to the City Council recommending a comprehensive historic resources survey, which will provide the baseline data for the Inventory. Based upon the results of the survey, the Commission shall compile and approve the Inventory. Property owners shall be notified of all Commission meetings when their property is being considered for inclusion on the Inventory.

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 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.

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).

10.86.070 Designation Criteria for Historic Landmarks.

A. The Council may designate a property, with owner's 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 45 years old. A historic property less than 45 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 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.

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.

10.86.080 Designation Procedures – Historic Landmarks.

A. Application. The City Council, Historic Preservation 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 Council or Commission initiates the application, the Director shall oversee and cause the completion of the required application.

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.

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, sketches, drawings, or other descriptive material as available to support the nomination.

8. The signature of the property owner(s) or their authorized agents, if the owner is the applicant.

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 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. If the Commission has not taken action on the application within 60 days after receipt from the Director of the completed historic resources evaluation, the Commission will be deemed to have forwarded the application to the Council without recommendation.

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. ~~except as otherwise provided in Section 10.86.090.~~

F. Designation.

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 an approved City marker, but such a marker is not required.

10.86.090 Owner Consent for Landmark Designation.

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

~~A. Landmark applications can be recommended, initiated, prepared, and considered by the Commission without owner consent. The City Council will only consider a landmark application where the owner has not consented to the application under the process set forth in the following paragraph~~

~~B. If the Commission, in consultation with the Historic Consultant, adopts a resolution containing a finding that a property possesses exceptional significance, the Commission Resolution will be forwarded to each Councilmember.~~

~~1. If any Councilmember files a written request with the City Clerk on or before the twentieth day following the date the resolution is adopted, the City Clerk shall schedule a public hearing.~~

~~2. The Council shall conduct the public hearing pursuant to Section 10.86.080E. After closing the public hearing, the Council may designate a historic landmark without the owner's consent, if the Council adopts, by a 4/5 vote, a resolution containing all of the following findings:~~

~~a. The property possesses exceptional architectural, historical, aesthetic, or cultural significance to the city, region, state, or nation, as determined by a qualified professional;~~

~~b. The exceptional architectural, historical, aesthetic, or cultural significance found in finding No. 1 is of overriding importance to the heritage of the City;~~

~~c. Preservation of the resource is in the interest of and will serve the greater good of the community;~~

~~d. Designation will facilitate the preservation, rehabilitation, or protection of the property; and,~~

~~e. The property meets at least one of the criteria in Section 10.86.070.~~

10.86.100 Designation Criteria for Historic Districts.

A. In addition to satisfying the criteria in Section 10.86.070 (where applicable~~as those criteria are applied to the proposed district~~), 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.

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 60 days to submit the requested information. If the applicant fails to submit the requested information within that 60 day period the application shall be administratively withdrawn. 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 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 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 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 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 signature shall be counted per parcel for purposes of calculating the 60% required.

~~3.4.~~ 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.

10.86.120 Conservation Districts.

A. While conservation districts do not qualify for designation on the Register of Historic Resources, generally due to a lack of historic integrity, this Section provides for the identification of conservation districts, and for the recognition of such districts by the Commission. Alterations to properties considered to be contributing elements of Conservation Districts do not require Certificates of Appropriateness but may be subject to conservation district design guidelines.

B. An area may be recommended for designation as a Conservation District by the Director, a MBPO, or 51% of the property owners within the proposed District. Any such recommendation must include the information required by Section 10.86.110.B. All such information must be verified by a qualified architectural historian or historian.

C. The Commission may include on a list maintained by the Director a collection of properties as a Conservation District, if the proposed district has either:

1. A distinctive, cohesive, and identifiable setting, architectural style, scale, or character, and/or association that makes it unique and an integral part of the City's identity; or

2. A recognized neighborhood identity with a definable physical character whose retention would contribute to the overall historic character and setting of the City.

D. The recognition of a qualifying Conservation District may be accompanied by a plan and guidelines for new construction and in-fill, alterations and additions within the boundaries of the Conservation District.

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.

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.

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.

10.86.150 Certificate of Appropriateness – Requirement.

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 historic landmark or contributing resource listed on the Register of Historic Resources unless the City has first issued a Certificate of Appropriateness in accordance with the requirements of this Chapter. No person shall carry out or cause to be carried out demolition of any historic resource included in the Inventory of Historic Resources 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 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. 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 (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.

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.

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.

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 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 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.

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.

10.86.190 60-Day Waiting Period for Demolition.

Applications for a certificate of appropriateness for demolition of a historic resource shall be subject to a 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.

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 years.

8. All appraisals obtained within the previous two 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 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 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.

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 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 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.

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, the time in which such action must be taken shall be extended to the extent necessary to allow time to comply with the Act.

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.

10.86.240 Preservation 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. Mills Act Contracts. 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.

B. Public Recognition. The Commission may establish a program to publicly recognize historic landmarks, historic districts, and conservation districts with plaques, signage, and other appropriate forms of recognition.

10.86.250 Historic Variance.

Historic variances 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. 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.

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.

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 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.

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 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.”

Section 9. The City Clerk is directed to make any other corresponding language changes to the Municipal Code to achieve internal consistency as required.

Section 10. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 11. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

PASSED, APPROVED AND ADOPTED _____, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

MARK BURTON
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney