

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

TO: Planning Commission

FROM: Marisa Lundstedt, Director of Community Development

BY: Laurie Jester, Planning Manager
Angelica Ochoa, Associate Planner
Rafael Garcia, Assistant Planner

DATE: June 10, 2015

SUBJECT: Amendments to Title 10 Planning and Zoning, other portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) revising the Historic Preservation provisions

RECOMMENDATION

Conduct the continued public hearing, take public comment, discuss and adopt the attached draft Resolution No. PC 15-XX (Attachment A) recommending to the City Council approval of revision to the Historic Preservation regulations. Staff has incorporated comments into the attached draft Resolution from the Planning Commission meeting on April 29th, 2015. If the Planning Commission approves the attached draft Resolution, it will be forwarded to the City Council for review and action through the public hearing process.

BACKGROUND:

The existing Landmark Ordinance No. 2143 was adopted by the City Council on September 5, 2006, establishing Chapter 10.86 Culturally Significant Landmarks in the Municipal Code. This ordinance only recognizes properties of cultural significance without limiting or prohibiting any development rights and is voluntary on behalf of the property owner. The proposed Historic Ordinance allows a limited number of people to submit an application requesting Landmark designation, requires owner's consent for the actual designation of a Landmark and will limit the alteration, improvements and demolition of the designated structure or feature. The intent of the proposed Historic Preservation ordinance is to preserve and protect historic resources in the City while balancing historic preservation objectives with property owners' rights.

Planning Commission meeting

On April 29, 2015, the Planning Commission conducted a public hearing with detailed information on the background, introduction and overview of Historic Preservation. Staff, the Historic Preservation Consultant (SWCA Environmental Consultants), and City Attorney presented the process on the implementation of the Ordinance, including the proposed code amendments, duties and roles of the new Historic Preservation Commission, designation criteria for landmarks and districts, the nomination process,

certificate of appropriateness and alterations and demolitions of designated properties. The Los Angeles Conservancy, the Manhattan Beach Cultural Heritage Conservancy (MBCHC) and members of the public were also in attendance and provided input.

The Planning Commission directed staff to research and revise the draft ordinance, if applicable, to address the following key issues.

- Demolition Permit review process
- Application Threshold (percentage of owner consent) for Historic Districts
- Maintain Voluntary/Honorary Designation Process
- Clarity/Readability
- Perform more historical outreach within community
- Clarification of Conservation Districts
- Clarification of Owner's Consent
- Definitions within Ordinance
- Impacts to property values/private property rights
- Clarify Mills Act and Historic Preservation are separate processes
- Certificate of Economic Hardship
- Clarification of CEQA and Appeals

A revised draft Historical Preservation Resolution is attached for the Planning Commission's review and consideration as attachment A. This draft would be codified in the City's Municipal Code, replacing the existing landmark ordinance, Chapter 10.86, Culturally Significant Landmarks. Also, the draft Resolution has been developed with the intention of the City obtaining "Certified Local Government" (CLG) status through the State Office of Historic Preservation as directed by the City Council. The City's Historic Preservation Consultant (SWCA Consultants) also forwarded a copy of the City's draft Historic Ordinance to the State Office of Historic Preservation for review and comment and any input received from the State will be presented at the Planning Commission meeting.

DISCUSSION:

Overall, the Planning Commission supported code amendments for Historic Preservation. They stated that any code amendments should be carefully considered and researched in order to balance property rights with preservation of our heritage. They felt that historic preservation is important in Manhattan Beach since many small older unique beach cottages are being torn down and replaced with larger buildings.

Historic Preservation Ordinance

Staff coordinated with the City's Historic Consultant and the City Attorney on clarifying and addressing the Planning Commission concerns as outlined above. The following sections were revised from the draft Resolution that was presented to the Planning Commission on April 29, 2015. A redline strikeout version of the draft Resolution is attached (Attachment B) that shows what code language was revised.

Demolition Permits – Section 10.86.150 B. and Section 10.86.160 B.

The application for the demolition of historic resource was increased from a 30-day waiting period to 60 days. The Planning Commission felt that more time should be given to review and evaluate the demolition of a potential historic resource. Staff has some concerns regarding the 60 day waiting period as it may be too lengthy for the applicant to wait and 45 days may be more reasonable. Staff is asking the Planning Commission for direction on this item and the appropriate review period. Section 10.86.150.B. and Section 10.86.160.B.1. in the attached Resolution will be revised to reflect the Planning Commission’s decision on the waiting period.

Historic Districts – Section 10.86.100 D. 3.

When applying for a historic district, prior to a public hearing, 25% of owners signatures will be required in support of the application and 51% of signatures will be required from property owners within the historic district. The Planning Commission felt that the percentages should be kept as low as possible and not require as many signatures when first applying for a historic district. This 2-tiered approach is used successfully in other Cities and was suggested by the Los Angeles Conservancy.

Conservation Districts – Section 10.86.030 and Section 10.86.100 E. 1 and 3

The Planning Commission wanted more clarification on this item. Conservation Districts are not subject to the same review and requirements as are designated landmarks and historic districts. A conservation district would generally be identified in a historic resources survey and added to the inventory. The City can commission the preparation of conservation district plan and design guidelines and require owner consent for a conservation district to be identified in a survey. If owner’s consent is required, other owners located in conservation districts would have the option of declining to participate. Additional language was added to the definitions section for Conservation Districts as well as Section 10.86.100E: 1 and 3.

Owner’s Consent – Section 10.86.090 and Section 10.86.110

The Planning Commission wanted more clarification and cross referencing on this item. Additional language was added to Section .090 (not .100, though, since historic district requirements differ from those for individual landmarks): "Landmark applications can be initiated and prepared without owner consent, but owner consent is required for a property to be designated as a historic landmark (per specifications described in Section 10.86.110)."

Definitions- Section 10.86.030 and Section 10.86.110

The Planning Commission wanted more clarification on the definition of owner. A definition of “Property Owner” was added, which 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. Definition of “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.

Certificate of Economic Hardship – Section 10.86.180

According to the Historic Preservation Consultant, the inclusion of an Economic Hardship variance in this ordinance enhances its legal defensibility; this is a "release valve" that allows a property owner to argue that enforcement of the ordinance would cause them unusual and extreme economic hardship. See Office of Historic Preservation Bulletin 14, page 70, (Attachment C) for more information on the role of Economic Hardship clauses in Historic Preservation ordinances.

CEQA and Appeals- Section 10.86.200 and Section 10.86.210

The Planning Commission wanted this item clearer and easier to read. The City Attorney revised and clarified these sections.

Honorary Landmark Ordinance- Section 10.86.230

The Planning Commission felt that residents should be given the option of retaining the existing honorary landmark designation without the added requirements and restrictions of the Mills Act and Historic Preservation process. The MBCHC also supported keeping the honorary landmark designation process. Staff included portions of the current provisions within the new Ordinance. The MBCHC indicated that this option was important to them and that they would like to continue to stay involved in initiating these requests as they currently do and have done in the past. This Section has been written to have requests from the property owner go through the MBCHC or another local Preservation Organization with approval by the Historic Preservation Commission of Honorary designations.

Code language simplification

The Planning Commission requested that the language in the Ordinance be simplified and more user-friendly. The language in the ordinance is tailored to be standard, similar to other CLG Certified codes and legally defensible. Staff did review the language and simplified where possible. Staff would suggest that all the outreach/educational materials be written and presented in very simple, user-friendly, lay-person language that is clear and concise. The educational materials might be the first stop for residents wishing to acquaint themselves with the provisions of the new law.

Outreach

Planning staff sent a courtesy notice to almost 250 stakeholders that included members of the development community (architects, contractors, developers and others) as well as a variety of local community groups in order to inform them of the proposed Historic Preservation Ordinance. The recipients were encouraged to call, email, access the City website and share the information with friends and neighbors. The notice was sent via email on May 21st. To date, staff has not received any questions or comments from the public regarding the ordinance.

Property rights- Section 10.86.110

The Planning Commission was concerned whether the proposed Historic Preservation Ordinance would affect property rights. Any property located in a historic district would have to maintain their property as a historic resource. This would impact property rights on owners who did not want to maintain their property as a historic resource. Office of Historic Preservation Bulletin 14, pages 58 – 60, Attachment D includes a helpful discussion, pp. 58-60, on the legal aspects of designation and property rights. In summary, in past cases, the courts have not found designation to constitute a "taking": "Several principles stand out from past litigation: 1. Designation alone rarely creates a burden sufficient to sustain a takings claim; 2. Regulatory takings are not found in reference to highest and best use, nor does a substantial diminution in value necessarily result in a taking; rather, the question is whether the preservation regulation denies all reasonable economic use of the property; 3. Historic conditions provide the baseline for reasonable expectations of use of the property."

According to the City Attorney, the Ordinance includes State regulations (Sections .110, .180, and .210) which address the legal issues of property rights.

Property values

The Planning Commission had concerns that adding restrictions to properties through the Historic Preservation Ordinance would impact property values, possibly reducing them, where property values have always been high. While specific data on historic preservation and property values is not available for Manhattan Beach, broader data generally show that historic preservation greatly enhances property values, as neighborhoods with historic character and appeal are popular and highly sought after, as both residential and commercial spaces. Additionally, since owners consent is required (except in very rare circumstances with City Council override) the owner could weigh the benefits and obligations, as well as possible economic impacts of designation before consenting.

Historic Preservation Ordinance and Mills Act Property Tax Reduction Program

Any owner wishing to take advantage of the Mills Act must first obtain historic preservation designation. After designation is obtained the owner has the option of applying for the Mills Act Program, if they meet the criteria. Participation in the Mills Act Program is not required for historic properties, but it is an incentive that some owners will take advantage of to reduced their property taxes and use those savings to maintain and upgrade their historic properties.

The Mills Act Program is a contract that allows qualifying owners to receive a property tax reduction and use the savings to help rehabilitate, restore and maintain their property. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their properties to receive property tax

relief. Owners of qualified historic properties may apply for the program if they pledge to rehabilitate and maintain the historical and architectural character of their properties for the life of the Contract. The Mills Act program is especially beneficial for more recent (post Proposition 13) buyers of historic properties.

CONCLUSION:

Staff recommends that the Planning Commission conduct the continued public hearing, take public input, discuss the revised Code Amendments, and approve the draft Resolution which will then to be forwarded to the City Council to begin the public hearing process.

Attachments:

- A. Draft Resolution No. PC ____-
- B. Redline Strikeout version comparison of April 29, 2015 draft Resolution
- C. Office of Historic Preservation (OHP) Bulletin 14, page 70
- D. Office of Historic Preservation (OHP) Bulletin 14, pages 58-60

RESOLUTION NO. 15-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO 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 PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On April 29, 2015 the Planning Commission conducted a public hearing, and reviewed proposed text amendments to Chapter 10.86 of the Municipal Code, part of the City's Zoning Ordinance, and continued the public hearing to June 10, 2015.

B. On June 10, 2015, the Planning Commission again reviewed the draft Code amendments.

C. The Planning Commission public hearing included a public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

D. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

E. The Planning Commission finds 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.

F. The Planning Commission finds 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 2. The Planning Commission of the City of Manhattan Beach hereby recommends deleting Chapter 10.86 (Culturally Significant Landmarks) of the Manhattan Beach Municipal Code and replacing it with the following:

**ATTACHMENT A
PC MTG 6-10-15**

**“Chapter 10.86
HISTORIC PRESERVATION**

- 10.86.010 Title.
- 10.86.020 Purpose.
- 10.86.030 Definitions.
- 10.86.040 Historic Preservation Commission.
- 10.86.050 Inventory of Historic Resources.
- 10.86.060 Register of Historic Resources.
- 10.86.070 Designation Criteria for Historic Landmarks.
- 10.86.080 Designation Criteria for Historic Districts.
- 10.86.090 Designation Procedures – Historic Landmarks.
- 10.86.100 Designation Procedures – Historic Districts.
- 10.86.110 Owner Consent.
- 10.86.120 Landmark Designation – Amendment or Rescission.
- 10.86.130 Duty to Maintain Historic Resources.
- 10.86.140 Certificates of Appropriateness – Requirement.
- 10.86.150 Certificates of Appropriateness – Procedures.
- 10.86.160 Certificates of Appropriateness – Findings.
- 10.86.170 Work Moratorium.
- 10.86.180 Certificate of Economic Hardship.
- 10.86.190 Unsafe or Dangerous Conditions.
- 10.86.200 Environmental Review.
- 10.86.210 Appeals.
- 10.86.220 Preservation Incentives.
- 10.86.230 Voluntary Honorary Designation of Landmarks.
- 10.86.240 Historic Variance.
- 10.86.250 Application Filing Fees.
- 10.86.260 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, features and 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.
- I. Continue to provide a voluntary honorary landmark designation process through a Manhattan Beach Preservation Organization, with recognition by the City, but with no incentives or property right effects on the landmark.

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.

“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.

“Certificate of Economic Hardship” means the permit granted to a property owner or applicant by the Historic Preservation Commission or Director to approve an application for a Certificate of Appropriateness for a project that, due to undue economic hardship on the owner, does not comply with the Secretary’s Standards.

“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.

“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.

“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 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 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 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 and historic districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.

B. Automatic Designation. Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is automatically designated 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 historic landmark designations 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 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 landmark designation are described in Section 10.86.120 (Landmark Designation – Amendment or Rescission).

10.86.070 Designation Criteria for Historic Landmarks.

A. The Council may designate a property 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 Criteria for Historic Districts.

A. In addition to satisfying the criteria in Section 10.86.070, 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, aesthetic, 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. In recommending approval of a historic district, the Commission may recommend the adoption of district-specific design guidelines to guide subsequent new construction, alterations and additions, and to further the purpose of this Chapter.

D. 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.

10.86.090 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. Landmark applications can be initiated and prepared without owner consent, but owner consent is required for a property to be designated as a historic landmark (per specifications described in Section 10.86.110).

C. 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 or 10.86.080.

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.

D. Evaluation. Within 90 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.

E. 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.

F. 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 180 days of the Commission's recommendation, then the application shall be deemed denied. Owner consent for designation shall be in accordance with the requirements of Section 10.86.110.

G. 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.

10.86.100 Designation Procedures – Historic Districts.

A. Applicable Historic Landmark Procedures. Procedures for the application and designation of historic districts shall be the same as those applicable to historic landmarks, except as modified by this Section.

B. Applications. In addition to all other information and materials described in Section 10.86.090, 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 25% 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 25% 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.

3. The written consent of a minimum of 51% 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 51% required.

E. Conservation Districts.

1. While conservation districts do not qualify for landmark designation on the Register of Historic Resources, generally due to a lack of historic integrity, this Chapter 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.

2. Upon the recommendation of the Director, a MBPO or 51% of the property owners within the District, subject to the criteria and procedures in Section 10.86.100 B.1, and as verified by a qualified architectural historian or historian 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:

a. 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

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

3. 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.

10.86.110 Owner Consent.

A. Landmark nominations can be recommended, initiated, and prepared without owner consent.

B. Owner consent is required for a property to be designated as a historic landmark. The Council may designate a historic landmark without the owner's consent, if the Council makes both of the following findings:

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

2. Designation will facilitate the preservation, rehabilitation, or protection of the property.

10.86.120 Landmark Designation – Amendment or Rescission.

A. Criteria for Rescission. Once a landmark or historic district designation or contributing property to a historic district is made, it 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 or historic district no longer meets the criteria for designation under Section 10.86.070 or 10.86.080.

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.

10.86.130 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.

10.86.140 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 or a Certificate of Economic Hardship in accordance with the requirements of this Chapter.

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.

1. The following considerations shall guide the review and issuance of Certificates of Appropriateness at the Administrative Review level:

a. 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.

b. 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.

2. Work that may be approved through Administrative Review includes but is not limited to:

a. 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.

b. Alterations or actions for which a Certificate of Economic Hardship has been approved.

D. Commission Review.

Work that involves major alterations shall be referred to the Commission for a Certificate of Appropriateness.

10.86.150 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. _____-Day Waiting Period for Demolition. Applications for a certificate of appropriateness for demolition of a historic resource shall be subject to a ____-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.

C. 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.

D. 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 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.

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 10.86.210. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.

10.86.160 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 ___-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 unworthy 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 10.86.130.

10.86.170 Work Moratorium.

A. Moratorium – Pending Historic Landmark Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.190, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness on a proposed historical landmark for which an application has been filed, until final approval of the designation.

B. Moratorium – Pending Historic District Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.190, 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 property within the boundaries of a proposed historic district while an application for designation is pending.

10.86.180 Certificate of Economic Hardship.

A. Certificate. The Commission may issue a Certificate of Economic Hardship 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 a Certificate of Economic Hardship 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 a Certificate of Economic Hardship; 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 a Certificate of Economic Hardship 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 Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

2. No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

10.86.190 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.

10.86.200 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.

10.86.210 Appeals.

A. The owner of a property subject to review, or the applicant, if different then 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 10.86.090 is not appealable.

C. Any decision regarding a Historic Resource by the Director shall become final 15 days following the date of the decision unless an appeal to the Commission is filed.

D. Any decision of the Commission regarding a Historic Resource shall become final 15 days following the date of the decision unless an appeal to the City Council is filed.

10.86.220 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 – 502090 (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.

10.86.230 Voluntary Honorary Designation of Landmarks.

At the request of the owner of record, the Historic Preservation Commission may designate any privately owned property in the City as a landmark pursuant to the criteria set forth below and issue a Certificate of Cultural Significance with regard to that property in recognition of its unique status in the community.

A. Procedure for Designation of Honorary Landmark. The owner of record shall submit an application identifying the property, with a brief description of the site, building structure or significant horticultural development, the reasons why the site is considered culturally significant. The Manhattan Beach Preservation Organization may submit the application on the owner’s behalf, with the owner’s consent. Any application not submitted by the Manhattan Beach Preservation Organization shall require review, input and a recommendation of approval from the Manhattan Beach Preservation Organization prior to review by the Historic Preservation Commission. Within 90 days of receipt of the application City staff shall schedule a public meeting with the Historic Preservation Commission to consider any such application. The decision of the Commission shall be final with regard to any such application.

B. Criteria for designation of Honorary Landmarks. The Commission shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, site, structure, or area meets one or more of the following criteria:

1. Its character, interest, or value as part of the development, heritage, or cultural characterization of the community;
2. Its identification with a person or persons who significantly contributed to the development of the community;
3. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
4. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community;

5. Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

6. Its embodiment of design elements that make it structurally or architecturally innovative;

7. Its unique location or singular physical characteristics that make it an established or familiar visual feature;

8. Its suitability for preservation or restoration. Any structure, property, or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration;

9. It shall have historic, aesthetic, or special character or interest for the general public and not be limited in interest to a special group or person; or

10. Its designation shall not infringe upon the rights of a private owner thereof to make any and all reasonable uses thereof which are not in conflict with the purposes of this chapter.

C. Landscaping. An Honorary Landmark may be a tree or other landscaping which shall qualify to be of historic or cultural significance and of importance to the community if it meets any one of the following criteria:

1. It is one of the largest or oldest trees of the species located in the City;

2. It has historical significance due to an association with a historic event, person, site, street, or structure; or

3. It is a defining landmark or significant outstanding feature of a neighborhood.

D. Signage for Honorary Landmarks. At the time the Commission approves the designation of a property or site as an Honorary Landmark, it may, at the owner's request approve signage for the site which memorialized its designation under this Chapter.

E. Effect of designation as an Honorary Landmark. The designation of a property or site under this section is an honorary designation only. Such designation shall have no effect upon the property rights of the owner of such property nor curtail alteration, development or demolition of such property.

F. Removal of designation as an Honorary Landmark. The owner of a designated culturally significant site may, at any time, apply to have the designation removed. The property owner shall file a written statement with the Director or his or her designee setting forth the reasons for the request for removal and the Director shall have the authority to take action on the request.

10.86.240 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.

10.86.250 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.

10.86.260 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 With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings”. 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 property 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 3. The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language changes to the Manhattan Beach Municipal Code and the Local Coastal Program to achieve internal consistency as required.

Section 4. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 10, 2015 and that said Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Marisa Lundstedt
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

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RESOLUTION NO. 15-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO 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 PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On April 29, 2015 the Planning Commission conducted a public hearing, and reviewed proposed text amendments to Chapter 10.86 of the Municipal Code, part of the City's Zoning Ordinance, ~~and continued the public hearing to June 10, 2015.~~

B. On ~~_____~~, June 10, 2015, the Planning Commission again reviewed the draft Code amendments.

C. ~~All of the~~ The Planning Commission public ~~hearings~~ hearing included a public ~~notices~~ notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

D. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

E. The Planning Commission finds 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.

F. The Planning Commission finds 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 2. The Planning Commission of the City of Manhattan Beach hereby recommends deleting Chapter 10.86 (Culturally Significant Landmarks) of the Manhattan Beach Municipal Code and replacing it with the following:

**ATTACHMENT B
PC MTG 6-10-15**

**“Chapter 10.86
HISTORIC PRESERVATION**

- 10.86.010 Title.
- 10.86.020 Purpose.
- 10.86.030 Definitions.
- 10.86.040 Historic Preservation Commission.
- 10.86.050 Inventory of Historic Resources.
- 10.86.060 Register of Historic Resources.
- 10.86.070 Designation Criteria for Historic Landmarks.
- 10.86.080 Designation Criteria for Historic Districts.
- 10.86.090 Designation Procedures – Historic Landmarks.
- 10.86.100 Designation Procedures – Historic Districts.
- 10.86.110 Owner Consent.
- 10.86.120 Landmark Designation – Amendment or Rescission.
- 10.86.130 Duty to Maintain Historic Resources.
- 10.86.140 Certificates of Appropriateness – Requirement.
- 10.86.150 Certificates of Appropriateness – Procedures.
- 10.86.160 Certificates of Appropriateness – Findings.
- 10.86.170 Work Moratorium.
- 10.86.180 Certificate of Economic Hardship.
- 10.86.190 Unsafe or Dangerous Conditions.
- 10.86.200 Environmental Review.
- 10.86.210 Appeals.
- 10.86.220 Preservation Incentives.
- 10.86.230 [Voluntary Honorary Designation of Landmarks.](#)
- [10.86.240](#) Historic Variance.
- ~~10.86.240~~[10.86.250](#) Application Filing Fees.
- ~~10.86.250~~[10.86.260](#) 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, features and 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 ~~both~~ 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.
- I. [Continue to provide a voluntary honorary landmark designation process through a Manhattan Beach Preservation Organization, with recognition by the City, but with no incentives or property right effects on the landmark.](#)

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.

“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.

“Certificate of Economic Hardship” means the permit granted to a property owner or applicant by the Historic Preservation Commission or Director to approve an application for a Certificate of Appropriateness for a project that, due to undue economic hardship on the owner, does not comply with the Secretary’s Standards.

“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.

“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.

“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 means”~~ 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 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.

~~To the extent possible, at~~ 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 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 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 and historic districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.

B. Automatic Designation. Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is automatically designated 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 historic landmark designations 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 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 landmark designation are described in Section 10.86.120 (Landmark Designation – Amendment or Rescission).

10.86.070 Designation Criteria for Historic Landmarks.

A. The Council may designate a property 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 a significant and distinguishable entity whose components may lack individual distinction.~~

5. ~~6.~~ 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. ~~7.~~ 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 Criteria for Historic Districts.

A. In addition to satisfying the criteria in Section 10.86.070, 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, aesthetic, 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. ~~B.~~—In recommending approval of a historic district, the Commission may recommend the adoption of district-specific design guidelines to guide subsequent new construction ~~and in-fill~~, alterations and additions, and to further the purpose of this Chapter.

D. ~~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.

10.86.090 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. All applications shall be made on a form prescribed by the Director and shall include the following data:

B. Landmark applications can be initiated and prepared without owner consent, but owner consent is required for a property to be designated as a historic landmark (per specifications described in Section 10.86.110).

C. 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 or 10.86.080.

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. ~~Statement~~ 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.

D. ~~B.-Evaluation.~~ Within 90 days after the date a designation application is deemed complete, the Director shall prepare, or cause to be prepared, a historic resources evaluation to ~~confirm~~determine the eligibility of the property and to document all potentially historic features of the subject property and prepare a report to the Commission. ~~Such survey~~The evaluation shall be conducted by a qualified architectural historian or historian.

E. ~~C.-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.

F. ~~D.-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 180 days of the Commission's recommendation, then the application shall be deemed denied. Owner consent for designation shall be in accordance with the requirements of Section 10.86.110.

G. ~~E.-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.

10.86.100 Designation Procedures – Historic Districts.

A. Applicable Historic Landmark Procedures. Procedures for the application and designation of historic districts shall be the same as those applicable to historic landmarks, except as modified by this Section.

B. Applications. In addition to all other information and materials described in Section 10.86.090, 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 ~~___percent~~25% 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 ~~___percent~~25% 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 ~~a-contributing resource~~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 ~~in-fill, new construction/additions, and,~~ alterations and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting.

3. The written consent of a minimum of 51% 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 51% required.

E. Conservation Districts.

1. While conservation districts do not qualify for landmark designation on the Register of Historic Resources, generally due to a lack of historic integrity, this Chapter 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.

2. Upon the recommendation of the Director, a MBPO or ~~51~~51% of the property owners within the ~~district~~District, subject to the criteria and procedures in Section 10.86.100 B.1, and as verified by a qualified architectural historian or historian the Commission may include on a list maintained by the Director a collection of properties as a ~~conservation district~~Conservation District, if the proposed district has either:

a. 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

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

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

10.86.110 Owner Consent.

A. Landmark nominations can be recommended, initiated, and prepared without owner consent.

B. Owner consent is required for a property to be designated as a historic landmark. The Council may designate a historic landmark without the owner's consent, if the Council makes both of the following findings:

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

2. Designation will facilitate the preservation, rehabilitation, or protection of the property.

10.86.120 Landmark Designation – Amendment or Rescission.

A. Criteria for Rescission. Once a landmark or historic district designation or contributing property to a historic district is made, it 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 or historic district no longer meets the criteria for designation under Section 10.86.070 or 10.86.080.

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.

10.86.130 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.

10.86.140 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 or a Certificate of Economic Hardship in accordance with the requirements of this Chapter.

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.

1. The following considerations shall guide the review and issuance of Certificates of Appropriateness at the Administrative Review level:

a. 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.

b. 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.

2. Work that may be approved through Administrative Review includes but is not limited to:

a. 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.

b. Alterations or actions for which a Certificate of Economic Hardship has been approved.

D. Commission Review.

Work that involves major alterations shall be referred to the Commission for a Certificate of Appropriateness.

10.86.150 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. Thirty -Day Waiting Period for Demolition. Applications for a certificate of appropriateness for demolition of a historic resource shall be subject to a ~~30~~ -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.

C. 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.

D. 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 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 fewerless), 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.

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 10.86.210. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.

10.86.160 Certificates of Appropriateness – Findings.

A. Standard Findings. A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, ~~make~~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 ~~30~~-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 unworthy 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 10.86.130.

10.86.170 Work Moratorium.

A. Moratorium – Pending Historic Landmark Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.190, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness on a proposed historical landmark for which an application has been filed, until final approval of the designation.

B. Moratorium – Pending Historic District Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.190, 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 property within the boundaries of a proposed historic district while an application for designation is pending.

10.86.180 Certificate of Economic Hardship.

A. Certificate. The Commission may issue a Certificate of Economic Hardship 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 a Certificate of Economic Hardship shall be made on the prescribed form and ~~shall~~ be accompanied by the following information ~~where~~, 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 a Certificate of Economic Hardship; 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 a Certificate of Economic Hardship 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 Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

2. No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

10.86.190 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.

10.86.200 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 in order to the extent necessary to allow time to comply with the Act, ~~subject to the time limits imposed by the Permit Streamlining Act.~~

10.86.210 Appeals.

A. The owner of a property subject to review, or the applicant, if different then the owner, may appeal any decision ~~(other than a decision whether to initiate a historic landmark designation application in accordance with Section 10.86.090)~~ 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 10.86.090 is not appealable.

C. ~~B.~~ Any decision regarding a Historic Resource by the Director shall become final ~~1015~~ days following the date of the decision unless an appeal to the Commission is filed.

D. ~~C.~~ Any decision of the Commission regarding a Historic Resource shall become final ~~1015~~ days following the date of the decision unless an appeal to the City Council is filed.

10.86.220 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 – 502090 (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.

10.86.230 Voluntary Honorary Designation of Landmarks.

At the request of the owner of record, the Historic Preservation Commission may designate any privately owned property in the City as a landmark pursuant to the criteria set forth below and issue a Certificate of Cultural Significance with regard to that property in recognition of its unique status in the community.

A. Procedure for Designation of Honorary Landmark. The owner of record shall submit an application identifying the property, with a brief description of the site, building structure or significant horticultural development, the reasons why the site is considered culturally significant. The Manhattan Beach Preservation Organization may submit the application on the owner’s behalf, with the owner’s consent. Any application not submitted by the Manhattan Beach Preservation Organization shall require review, input and a recommendation of approval from the Manhattan Beach Preservation Organization prior to review by the Historic Preservation Commission. Within 90 days of receipt of the application City staff shall schedule a public meeting with the Historic Preservation Commission to consider any such application. The decision of the Commission shall be final with regard to any such application.

B. Criteria for designation of Honorary Landmarks. The Commission shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, site, structure, or area meets one or more of the following criteria:

1. Its character, interest, or value as part of the development, heritage, or cultural characterization of the community;

2. Its identification with a person or persons who significantly contributed to the development of the community;

3. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;

4. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community;

5. Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

6. Its embodiment of design elements that make it structurally or architecturally innovative;

7. Its unique location or singular physical characteristics that make it an established or familiar visual feature;

8. Its suitability for preservation or restoration. Any structure, property, or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration;

9. It shall have historic, aesthetic, or special character or interest for the general public and not be limited in interest to a special group or person; or

10. Its designation shall not infringe upon the rights of a private owner thereof to make any and all reasonable uses thereof which are not in conflict with the purposes of this chapter.

C. Landscaping. An Honorary Landmark may be a tree or other landscaping which shall qualify to be of historic or cultural significance and of importance to the community if it meets any one of the following criteria:

1. It is one of the largest or oldest trees of the species located in the City;

2. It has historical significance due to an association with a historic event, person, site, street, or structure; or

3. It is a defining landmark or significant outstanding feature of a neighborhood.

D. Signage for Honorary Landmarks. At the time the Commission approves the designation of a property or site as an Honorary Landmark, it may, at the owner's request approve signage for the site which memorialized its designation under this Chapter.

E. Effect of designation as an Honorary Landmark. The designation of a property or site under this section is an honorary designation only. Such designation shall have no effect upon the property rights of the owner of such property nor curtail alteration, development or demolition of such property.

F. Removal of designation as an Honorary Landmark. The owner of a designated culturally significant site may, at any time, apply to have the designation removed. The property owner shall file a written statement with the Director or his or her designee setting forth the

reasons for the request for removal and the Director shall have the authority to take action on the request.

10.86.240 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.

~~10.86.240~~10.86.250 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.

~~10.86.250~~10.86.260 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 With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings”. 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 property 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 3. ~~If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.~~ The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language changes to the Manhattan Beach Municipal Code and the Local Coastal Program to achieve internal consistency as required.

Section 4. ~~Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.~~ The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting on _____, of June 10, 2015 and that said Resolution was adopted by the following ~~votes~~ vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Marissa L. Lundstedt
Community Development Director

~~Rosemary Lackow~~
~~Recording Secretary~~

Marisa Lundstedt
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

Document comparison by Workshare Professional on Thursday, June 04, 2015 3:17:29 PM

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Description	#1817010v2<RWGIMAN1> - MB- Resolution for Amending Chapter 10.86, Title 10 (Historic Preservation)
Document 2 ID	interwovenSite://RWGDMS2/RWGIMAN1/1817010/7
Description	#1817010v7<RWGIMAN1> - V7 - MB Resolution Amending Chapter 10.86, Title 10 (Historic Preservation)
Rendering set	Standard

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SECTION 8: ENFORCEMENT

A preservation ordinance will only be as effective as the power and willingness of the community to enforce it. Ignoring the details of enforcement when drafting a local ordinance may have unfortunate consequences. In Chicago, for example, Rincker House, the second oldest structure in the city and a designated historical resource, was torn down without official approval by a developer who apparently found that the prospective profits from redeveloping the site far outweighed the puny penalties contained in the local preservation ordinance. In other municipalities, preservation commissions find that the enforcement of local controls, particularly in large districts, cause some serious administrative headaches—it is simply too expensive and time-consuming to keep an eye on designated historical resources to make sure the local law is being observed by owners. Thus, in drafting enforcement provisions of an ordinance, one should keep in mind several major issues, including remedies for noncompliance, maintenance and upkeep requirements, and ordinance administration.

REMEDIES FOR NONCOMPLIANCE

As more and more historical resources are designated and the scope of preservation controls is broadened to control everything from demolition of exterior features to day-to-day upkeep, the issue of remedies for noncompliance is certain to become more crucial. The challenge in drafting effective enforcement provisions is to craft remedies strong enough to deter violations and induce compliance, but not so draconian that courts shy away from imposing them. The experience with building and housing codes regulations is instructive. If monetary fines are set at a low level (as fines for ignoring preservation laws often are), owners conclude that, even if they are caught violating a building code provision, the economic consequences are insignificant or can be treated as just another cost of doing business. On the other hand, experience also demonstrates that heavy reliance on criminal penalties is less than optimal. For example, judges in most jurisdictions simply do not put people into jail for zoning code violations. The middle ground options outlined below are likely to be most effective, particularly when used in combination with one another.

Fines

Money fines are the most widely used method of enforcing local codes. A local government generally has statutory authority to issue a notice of violation (not unlike a traffic ticket) and then proceed to court and collect a fine if it can prove its case. For example, the Fresno ordinance authorizes substantial fines in its preservation code:

It shall be unlawful for any person to permit or maintain violations of any of the provisions of this article by undertaking the alteration, grading, removal, demolition or partial demolition of an Historic Resource or a building, structure, object or site within a Historic District without first obtaining the written approval of the Specialist, Commission or Council as provided in this article, or to defy any order or decision rendered by the Specialist, Commission or Council. Any violations of this article may be enforced as provided in this Code, except in the case of administrative citations issued pursuant to this Code, wherein the administrative penalty imposed shall be up to \$10,000 for each

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Declaration⁹⁹ is appropriate if mitigation measures (e.g., redesign of a building to preserve historically significant features) would eliminate the substantial adverse change in the significance of the historical resource.

Environmental Impact Reports

For projects involving an unmitigated significant adverse change on a historical resource, CEQA requires an Environmental Impact Report (EIR).¹⁰⁰ California law requires that there be some "substantial evidence" on the record that an adverse change may occur, but the standard for evidence to this effect¹⁰¹ is easy to satisfy: A party claiming CEQA applicability need only assemble a "fair argument" from all available evidence that a project will negatively impact a significant historic resource.¹⁰²

In general, the EIR "must describe all reasonable alternatives, including those capable of reducing or eliminating environmental effects."¹⁰³ One of the alternatives always must be a "no project" scenario (i.e., no building addition, no demolition, etc.); however, some alternatives need not be considered if they are clearly infeasible.¹⁰⁴ If there are historical resources present, one of the alternatives must be to preserve the historical resources. Also, cumulative impacts and pending projects must be accounted for in the analysis of alternatives.¹⁰⁵

Though CEQA is primarily presented as a procedural statute, its provisions do have some substantive effect on the outcome of certain cases. Among a series of CEQA directives to local government, municipal authorities are not, for instance, permitted to approve environmental impacts if feasible alternatives or feasible mitigation measures addressing those impacts are available.¹⁰⁶ As a result, a project may be sent "back to the drawing board" by a court even after complying with all EIR requirements and procedures.¹⁰⁷

have a Negative Declaration).

⁹⁹ Cal. Pub. Res. Code §§ 21064, 21080(c)(2).

¹⁰⁰ Cal. Pub. Res. Code §§ 21061, 21100, 21100.1 (definition and contents of EIRs), 21155 (EIR process).

¹⁰¹ See, Cal. Pub. Res. Code § 21080(e).

¹⁰² *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 908, [60 Cal.Rptr.2d 821.] (Cal. App. 1997) (without fulfilling EIR requirement, City could not proceed with demolition and redevelopment when its own documentation indicated an affected building was historically significant); see also, *Communities for a Better Environment v. California Resources Agency*, Cal. Ct. App., 3rd Dist. Case No. C038844, decided October 28, 2002 (holding invalid CEQA rule 15064(h), which permitted regulatory standards to serve as a benchmark for CEQA compliance, because the rule would undermine the statutory and judicial standard of a "fair argument" that significant impacts may occur).

¹⁰³ *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco*, 106 Cal.App.3d 893, 909-12, [165 Cal.Rptr. 401.] (Cal. App. 1986) (emphasis added).

¹⁰⁴ *Id.* (\$1,000,000 loss to developer to maintain an existing structure at the City of Paris store site is not a feasible alternative requiring analysis in EIR for CEQA compliance).

¹⁰⁵ *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 151 Cal.App.3d 61, [198 Cal.Rptr. 634.] (Cal. App. 1984) (Mitigated Negative Declaration is of little value and does not meet CEQA statutory requirements without placing the project in larger geographic and temporal context).

¹⁰⁶ Cal. Pub. Res. Code §§ 21002, 21002.1

¹⁰⁷ See, *Orinda Ass'n v. Board of Supervisors*, 182 Cal.App.3d 1145, 1168, [227 Cal.Rptr. 688.] (Cal. App. 1986) (razing historic structures disallowed when EIR showed no attempt to mitigate or demonstrate the

Closing the CEQA Process

Where a CEQA process is required, a city or county must demonstrate that it has prepared the Negative Declaration, Mitigated Negative Declaration, or EIR in order to fulfill its CEQA obligations. In a typical CEQA process a community will certify an EIR or Mitigated Negative Declaration before issuing a permit for any activity affecting historic resources.¹⁰⁸ After the community has adopted an EIR or MND, the CEQA process remains open to legal challenges, but with typically short time frames for appeal, in order to ensure that all project review takes place in a timely manner and within a consolidated process.¹⁰⁹

Regarding the quality of CEQA documents, studies produced for CEQA compliance purposes are generally acceptable if they properly “ring the alarm bell” as to project impacts and disseminate project information in a manner that allows the public to intelligently weigh environmental (including historic) consequences of a project and have a say in the review process.¹¹⁰

The Relationship Between CEQA Procedures and Local Preservation Ordinances

Communities should reference the CEQA review process in their local preservation ordinances and clarify whether or not the local preservation decision-making review process will be influenced by the state-mandated CEQA review process.

As discussed above, CEQA has the potential to preclude further review of a proposal regarding an historic resource until the specific requirements of an EIR or MND have been initiated, if not completed. As a result, some communities draft preservation ordinances that allow local review only after appropriate CEQA procedures have been followed. The City of Fresno has taken this approach in its ordinance:

... No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act...¹¹¹

infeasibility of mitigation).

¹⁰⁸ See, *Ciani v. San Diego Trust & Savings Bank*, 233 Cal.App.3d 1604, 1611, [285 Cal.Rptr. 699,] (Cal. App. 1991); *Vedanta Society of Southern California v. California Quartet Ltd.*, 84 Cal.App.4th 517 (Cal. App. 2000); *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 908, [60 Cal.Rptr.2d 821,] (Cal. App. 1997).

¹⁰⁹ See, Cal. Pub. Res. Code § 21167.4 (requests for hearing not filed within 90 days of CEQA challenge subject entire claim to dismissal); *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 189 Cal.App.3d 498, 504, [234 Cal.Rptr. 527 (Cal. App. 1987); *Mitchell v. County of Orange*, 165 Cal.App.3d 1185, 1192, [211 Cal.Rptr 563,] (Cal. App. 1985).

¹¹⁰ *Dusek v. Redevelopment Agency*, 173 Cal.App.3d 1029, 1038-39, [219 Cal.Rptr. 346,] (Cal. App. 1985) (involving a proposal to demolish the Pickwick Hotel in downtown Anaheim, holding that compliance with CEQA does not require adherence to the minutiae of every technical provision).

¹¹¹ Fresno, California, Code of Ordinances § 13-412 (Historic Resource Permit Review Process).

Alternatively, some communities draft ordinances that allow local preservation review to proceed concurrently with the CEQA process, to the extent possible. For example, the City of Davis ordinance allows for extensions in the local review process to accommodate appropriate CEQA review.

If any action under this article is subject to the provisions of CEQA, the time in which such action must be taken shall be extended in order to allow time to comply with said Act, provided, however, that such action is taken within the time limits imposed by the Permit Streamlining Act.¹¹²

CEQA's jurisdiction over properties of historic value may extend beyond those properties recognized under a local preservation ordinance. In other words, just because a historical property is exempt from a local preservation ordinance does not necessarily mean that it is excluded from applicable CEQA provisions.¹¹³

¹¹² Davis, California, Code of Ordinances § 29.145.20 (Time Extensions).

¹¹³ See, Monterey, California, Code of Ordinances § 38.74(b) (exclusion from historic preservation ordinance do not create exemption for properties to which CEQA historic provisions apply).

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