

URGENCY ORDINANCE NO. 22-0002-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING THE MANHATTAN BEACH MUNICIPAL CODE TO
CLARIFY PROVISIONS FOR THE PRESERVATION OF HISTORIC
RESOURCES, AND MAKING A DETERMINATION OF
EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 10.86.030 (Definitions) of Chapter 10.86 of the Municipal Code is hereby amended to modify the definition of “Certificate of Appropriateness” as follows:

““Certificate of Appropriateness” means the permit granted on the finding by the Planning Commission or Director that an application to demolish, alter, or relocate a historic landmark or contributing resource as defined by this chapter 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.”

Section 2. Section 10.86.150 (Certificate of Appropriateness—Requirement) of Chapter 10.86 of the Municipal Code is hereby amended to read as follows:

“Section 10.86.150 - Certificate of Appropriateness—Requirement.

- A. **Certificate Required.** No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any historic landmark or contributing resource listed on the Register of Historic Resources unless the City has first issued a Certificate of Appropriateness in accordance with the requirements of this chapter. See also Section 10.86.180 regarding pending applications.
- B. **Exemptions.** A Certificate of Appropriateness shall not be required for ordinary maintenance or repair or minor alterations or for projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance of the property.
- C. **Administrative Review.** A Certificate of Appropriateness may be issued by the Director for work that requires issuance of a permit but does not involve a change of design, material, or appearance to character-defining features, nor the removal or obstruction of a character-defining feature, of a designated historic landmark or contributing property of a designated historic district. The Director shall approve, conditionally approve, or deny any application for a

Certificate of Appropriateness for any of the following types of alterations:

1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.
2. Addition or deletion of awnings, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.
3. Minor additions of square footage (one hundred fifty (150) square feet or less), as determined by the Director, where such additions are on the rear elevation and not visible from the public right-of-way and would not remove, change, or obstruct any of the property's character-defining features.
4. Alterations previously identified in an adopted design guidelines plan for a historic district and designated in such guidelines for review through the plan check process and approved accordingly.

- D. **Commission Review.** Applications for a Certificate of Appropriateness for work that does not qualify for administrative review pursuant to paragraph C of this Section 10.86.150 shall be referred to the Commission.”

Section 3. Section 10.86.170 (Certificate of Appropriateness—Findings) of Chapter 10.86 of the Municipal Code is hereby amended to read as follows:

“Section 10.86.170 - Certificate of Appropriateness—Findings.

- A. **Standard Findings.** A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, makes all of the following findings:
1. The project will not cause a substantial adverse change in the significance of an historic landmark or contributing resource in accordance with the California Environmental Quality Act.
 2. The project is consistent with the provisions of this chapter.
 3. The project is consistent with the Secretary's Standards and any applicable design guidelines adopted by the City.
- B. **Additional Findings for Demolitions.** In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic

landmark or contributing resource, all of the following additional findings must be made.

1. The mandatory sixty (60) day waiting period has expired.
2. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.
3. Restoration or rehabilitation would require extensive alterations that would render the resource infeasible of preservation.
4. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.
5. The deterioration of the historic landmark or contributing resource is not the result of the failure of the owner to maintain the property in accordance with Section 10.86.140.”

Section 4. Section 10.86.190 (Sixty (60) Day Waiting Period for Demolition) of Chapter 10.86 of the Municipal Code is hereby amended to read as follows:

“Section 10.86.190 - Sixty (60) Day Waiting Period for Demolition.

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

Section 5. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be effective immediately upon its adoption. This Ordinance shall expire on March 4, 2022, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

Section 6. Legislative Findings. The City is currently studying the potential land use and public service impacts of more streamlined historic preservation regulations. Unless the City adopts this interim urgency ordinance, a large number of properties *without a historic landmark designation* will remain subject to the complicated procedures that current apply to all “historic resources,” which

procedures delay redevelopment of such properties and impose additional costs on property owners. Staff is studying, revising, and drafting proposed permanent regulations, which both the Planning Commission and City Council must then consider after receiving input from residents at public hearings. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if the City continues to implement and enforce the Municipal Code's current historic preservation regulations. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to take effect immediately. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health, and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonably limited, yet sufficient period of time to develop streamlined historic preservation regulations. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that this Ordinance is necessary to prevent the avoidable delays, costs, and confusion resulting from the City's current procedures governing historic resources. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

Section 7. California Environmental Quality Act Exemption. The City Council determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.). This Ordinance is not a "Project" as defined under Section 15378 of the State CEQA Guidelines, as the proposed changes pertain to applicability for administrative processes and do not permit any development; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, this Ordinance is not subject to CEQA, because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 8. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

Section 9. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby

declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 10. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

ADOPTED January 18, 2022.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

HILDY STERN
Mayor

LIZA TAMURA
City Clerk

APPROVED AS TO FORM

QUINN M. BARROW
City Attorney