



## Legislation Details (With Text)

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**On agenda:** 1/18/2022      **Final action:**

**Title:** Consideration of an Urgency Interim Zoning Ordinance to Clarify Provisions for the Preservation of Historic Resources in the City's Existing Historical Preservation Ordinance (Community Development Director Tai).  
ADOPT URGENCY ORDINANCE NO. 22-0002-U

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Urgency Ordinance No. 22-0002-U, 2. Legislative Digest, 3. PowerPoint Presentation

Date	Ver.	Action By	Action	Result
1/18/2022	1	City Council Regular Meeting	accept	Pass

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Carrie Tai, AICP, Community Development Director  
Quinn Barrow, City Attorney

**SUBJECT:**

Consideration of an Urgency Interim Zoning Ordinance to Clarify Provisions for the Preservation of Historic Resources in the City's Existing Historical Preservation Ordinance (Community Development Director Tai).

**ADOPT URGENCY ORDINANCE NO. 22-0002-U**

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**RECOMMENDATION:**

Staff recommends that the City Council consider an urgency ordinance clarifying provision for the preservation of historic resources in the existing Historic Preservation Ordinance for the Certificate of Appropriateness (C of A), 60-day waiting period for demolitions, and environmental review to pertain only to historical landmarks and contributing resources to Historic Districts, rather than a broader set of properties that are potentially eligible for historical designation.

**FISCAL IMPLICATIONS:**

There are minimal fiscal implications associated with the recommended action. While the requirement to obtain a C of A will apply to fewer properties, the City has only received two C of A applications in the past 5 years. Therefore, staff anticipates little to no fiscal impact from this clarification of the Ordinance. As the recommended action is an interim zoning ordinance, the City will

need to review and update the existing Ordinance to ensure consistency with the City's intended historic preservation goals. This will be performed by in-house staff and will incur costs associated with staff time.

## **BACKGROUND:**

### *Chapter 10.86 Background*

The City of Manhattan Beach first adopted a Cultural Landmarks Ordinance in 2006, allowing for landmark designations with property owner request. After updating the City's Mills' Act regulations in 2014, the City Council directed staff to update to the Cultural Landmarks Ordinance with a more comprehensive and robust ordinance. In 2016, the City adopted the current Historic Preservation Ordinance ("Ordinance") that requires a review process for historic resources (defined as historic landmarks, contributing resources to historic districts, and a broader set of properties potentially eligible for landmark designation), and retaining the property-owner consent for the historic landmark designation process.

During 2021, the City received several inquiries about demolition of properties falling within the definition of historic resource, as they were potentially eligible for historic designation. The Ordinance requires a C of A, environmental review, and a sixty-day waiting period for proposed demolitions of all historic resources.

At the November 2, 2021, City Council meeting, the City Council requested a discussion the City's existing historic preservation ordinance, seeking clarity as to what portions of the ordinance were subject to property owner consent. On December 7, 2021, staff presented a discussion of the existing historical preservation ordinance to the City Council, including explanations of key requirements in the ordinance. The City Council conducted a discussion and concurred that the ordinance text differs from the intended policy direction during the 2016 adoption, confirmed that the intended policy direction was for the ordinance requirements to be voluntary, and directed staff to take action(s) to amend the ordinance.

Staff has reviewed the ordinance and determined that minor changes can be made immediately to resolve the broad applicability of the Certificate of Appropriateness, environmental review, and 60-day waiting period for demolition. These changes are presented herein.

## **DISCUSSION:**

During discussion and public comments, the City Council indicated concern with the cost and timing impacts of requiring properties without a historic landmark designation (or within a historic district, of which there are currently none) to submit applications for Certificates of Appropriateness, environmental review, and the 60-day waiting period for demolitions to historic resources.

Staff and the City Attorney's office have reviewed the Ordinance and determined that a possible immediate solution is to narrow the applicability requirements, in the following areas within the Ordinance:

### **1) Definition of C of A (Section 10.86.030)**

C of As are defined as "the permit granted on the finding by the Planning Commission or Director that an application to demolish, alter, or relocate a historic 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." By changing "historic resource" to "historic landmark or contributing resource", this would change the applicability to only properties designated as a historic landmark (which requires property owner consent) or

those that are a contributing resource to a historic district.

**2) Requirements for C of As (Section 10.86.150)**

Subsection A of Section 10.86.150 includes general C of A requirements for historic landmarks and contributing resources. The section includes a specific prohibition of any demolition of a historic resource included in the Inventory of Historic resources unless the City first issues a C of A. Deleting this prohibition is necessary to ensure internal consistency.

**3) Findings for C of As (Section 10.86.170)**

The Ordinance includes findings that must be met in order for a decision body to approve C of A. To ensure internal consistency, a corresponding change is needed in the findings section to indicate that the finding applies not to “historic resource” but to “historic landmark or contributing resource.”

**4) Sixty-day Waiting Period for Demolition (10.86.190)**

This section indicates that “Applications for a Certificate of Appropriateness for demolition of a historic resource” are subject to a sixty-day waiting period, during which the City would post notices and explore alternatives to demolition. By changing “historic resource” to “historic landmark or contributing resource”, this would change the applicability to only properties designated as a historic landmark (which requires property owner consent) or those that are a contributing resource to a historic district.

The proposed changes are in the draft Ordinance, included as an attachment.

Staff anticipates that two to three properties per month are potentially affected by the requirements in the current Ordinance, the most notable cases being proposed demolitions. Over half of the City's housing stock is over 45 years of age (built prior to 1976), rendering them as potentially eligible as a historic resource. As such, the potential for the Ordinance to affect even a handful of properties on a regular basis is considerable. Given this, staff has presented these interim measures to be adopted as an urgency ordinance.

**POLICY ALTERNATIVES:**

**ALTERNATIVE #1: Take No Action.** Staff would continue to implement the Historic Preservation Ordinance as written, requiring Certificate of Appropriateness for historic resources as well as the 60-day waiting period for proposed demolition of historic resources.

**ALTERNATIVE #2: Adopt an Interim Zoning Ordinance as an Urgency Ordinance.** The adoption of an interim zoning ordinance as an urgency ordinance prevents unintended consequences of relying solely on the ordinance text as written. An interim zoning ordinance would temporarily narrow the applicability for Certificates of Appropriateness, 60-day waiting period for demolition, and environmental review to historical landmarks and contributing resources to historic districts.

Four Councilmember votes in favor are required for an urgency ordinance. If adopted, the interim zoning ordinance would have a term of 45 days, with an expiration date of March 4, 2022. After public hearings, the interim zoning ordinance may be extended twice: (1) for a maximum of 10 months and 15 days; and (2) a second time not to exceed one year. In total, an interim zoning ordinance cannot exceed two years. Government Code Section 65858(d) requires that 10 days prior to the expiration or extension of any interim zoning ordinance, the City Council must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the

ordinance. If the Council adopts the draft ordinance, staff intends to present a 10-day alleviation measures report to the City Council on February 15, 2022, and schedule a public hearing to consider a 10 month 15 day extension ordinance for March 1, 2022.

**PUBLIC OUTREACH:**

While additional public notice beyond Brown Act requirements is not required for an urgency ordinance, staff will provide an updated description of the historic preservation ordinance on the City's website prior to January 18, 2022. Furthermore, any extension of the interim zoning ordinance will require public notification and a public hearing.

**ENVIRONMENTAL REVIEW:**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity 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 the activity is not subject to CEQA. Thus, no environmental review is necessary.

**LEGAL REVIEW:**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary, and has approved as to form the draft ordinance.

**ATTACHMENT:**

1. Urgency Ordinance No. 22-0002-U
2. Legislative Digest
3. PowerPoint Presentation