AGENDA REPORT

Meeting Date: March 6, 2012

Item Number: H-7

To: Honorable Mayor & City Council

From: Byron Pope, City Clerk

Subject: CULTURAL HERITAGE COMMISSION APPOINTMENTS

Attachments: Ordinance 12-O-2617

RECOMMENDATION

The Cultural Heritage Commission Interview Panel recommends that the City Council appoint Richard Waldow, Rebecca Pynoos, Maralee Beck and Lisa Greer to the Cultural Heritage Commission for the following terms:

- Richard Waldow (Vice Chair) – term to begin March 7, 2012 and end on March 6, 2016
- Rebecca Pynoos – term to begin on March 7, 2012 and end on March 6, 2016
- Maralee Beck – term to begin on March 7, 2012 and end on March 6, 2014
- Lisa Greer – term to begin on March 7, 2012 and end on March 6, 2014

The four Commissioners, along with the Cultural Heritage Commission Founding Chair Noah Furie, will be eligible for reappointment per Beverly Hills Ordinance 12-O-2617 – see attachment page 11. The ordinance further states the term of office of each Commissioner shall begin with the first day of March. It is recommended to use the start date following City Council adoption/appointment.

INTRODUCTION

This report transmits the formal request to appoint Richard Waldow, Rebecca Pynoos, Maralee Beck and Lisa Greer to the Cultural Heritage Commission for the term provided. Founding Chair Noah Furie was appointed by the City Council on January 10, 2012 and it is recommended that his initial term officially begin March 7, 2012 and end on March 6, 2016.

DISCUSSION

Staff presented the Cultural Heritage Commission Interview Panel Report to the City Council at today's Study Session. This action will formally approve the appointment presented to the City Council at this meeting.

FISCAL IMPACT

None.

Byron Pope BP
Approved By

Attachment 1

ORDINANCE NO. 12- 0-2617

ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ADOPT A HISTORIC PRESERVATION PROGRAM AND REVISE NOTICING RELATED TO DEMOLITION, RELOCATION, OR MAJOR ALTERATION OF BUILDINGS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Beverly Hills directed the Planning Commission and the Community Development Department to study and develop a historic preservation program for the City. The formulation of a historic preservation program requires amendment of Article 32 of Chapter 3 of Title 10 (Preservation of Landmarks) and Article 104 of Chapter 1 of Title 9 (Amendments to Uniform Administrative Code) of the Beverly Hills Municipal Code (the "Amendments").

Section 2. The Planning Commission considered the structure of a historic preservation program that would meet the needs and objectives of the City of Beverly Hills at study sessions on October 27, 2011 and December 8, 2011. A Planning Commission sub-committee was appointed, and met several times to craft a more detailed historic preservation program for consideration by the full Planning Commission.

Section 3. On December 19, 2011, the Planning Commission considered the Amendments at a duly noticed public hearing at which time the Planning Commission received oral and documentary evidence related to the Amendments. At the conclusion of the public hearing, the Planning Commission adopted Resolution No. 1627 recommending that the City Council adopt an ordinance approving and enacting the Amendments through revocation of Article 32 of Chapter 3 of Title 10 regarding preservation of landmarks, enactment of a new

Article 32 of Chapter 3 of Title 10 regarding historic preservation, and amendment of Article 104 of Chapter 1 of Title 9 regarding noticing of proposed demolition, relocation or major alteration of buildings.

Section 4. As recommended by the Planning Commission, the zone text amendments to Article 32 of Chapter 3 of Title 10 would replace existing Article 32 ("Preservation of Landmarks") with a new, more expansive Article 32 ("Historic Preservation"). The recommended Amendments would provide greater protection for historically significant properties by establishing a historic preservation program for the City. The recommended Amendments establish a Cultural Heritage Commission and create procedures and criteria for landmark and historic district designation, incorporate preservation incentives, and create penalties for unauthorized demolition or alteration of historic resources. The recommended amendments to Article 104 of Chapter 1 of Title 9 would extend an existing requirement for site noticing prior to the issuance of a permit for demolition from 10 days to 30 days, and would add a 30 day site noticing requirement for substantial alteration, when the subject property is 45 years old or older, and designed by a designer on a list of master architects.

Section 5. The Amendments are consistent with the objectives, principles, and standards of the General Plan. The City's General Plan includes the following goals that relate to historic preservation: "HP 1 Value and Preserve Significant Cultural Resources", "HP 2 Promotion of the City's Historic Resources"; in addition, the General Plan includes "Implementation Program 2.3. Other Development Regulations and Ordinances" which lists adoption of a historic preservation ordinance as one of the implementation actions of the General Plan.

Section 6. The intent of this ordinance is to provide the ability to acknowledge, honor, and encourage the continued maintenance and preservation of those select properties in the City which through exceptional architecture contribute to the City's cultural history.

Section 7. The Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. It has been determined that adoption of the Amendments would not have a significant environmental impact and is exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. In addition, adoption of the Amendments is be categorically exempt from environmental review as a project that meets the criteria of the Class 31 exemption ("Historical Resource Restoration/Rehabilitation") as an action for the preservation of historical resources in a manner consistent with the Secretary of Interior standards. The records related to this determination are on file with the City's Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210.

Section 8. The City Council hereby repeals Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding preservation of landmarks in its entirety, and adds a new Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding historic preservation as follows:

"Article 32
HISTORIC PRESERVATION
Title 10, Chapter 3

10-3-3201: Title.
10-3-3202: Definitions.
10-3-3203: Intent, Purpose, and Authorization.
10-3-3204: Administrative Guidelines.
10-3-3205: Permit Required.

Building. A structure that is created principally to house any form of human activity, such as a house, barn, church, hotel, or similar construction, including accessory structures, such as guest houses, detached garages and sheds. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail, or a house and barn.

California Environmental Quality Act (CEQA). Collectively, Public Resources Code Section 21000 *et seq.*, and the State of California CEQA Guidelines, 14 Cal. Code Regs. 15000 *et seq.*, as may be amended from time to time.

California Register of Historical Resources. The authoritative and comprehensive listing and guide to California's significant historical resources as defined in California Public Resources Code Section 5020.1, as may be amended. Also referred to as the California Register.

Certificate of Appropriateness. A certificate issued to approve alteration, restoration, construction, removal, relocation in whole or in part, or demolition of a designated Landmark or Property within a Historic District.

Certificate of Economic Hardship. A certificate authorizing work described in an accompanying Certificate of Appropriateness because of extreme financial privation or adversity and in accordance with the procedures and findings of this Article.

Certified Local Government. A local government that participates in the program authorized by the National Historic Preservation Act of 1966 (16 U.S. C. Section 470 et seq.) and the subsequent participatory agreement between the City and the State of California Office of Historic Preservation.

Character-Defining Feature. A prominent or distinctive aspect, quality, detail, or characteristic of a Historic Resource that contributes significantly to its physical character and historical significance. Such features may include but are not limited to landscaping, setbacks, massing, distinguishing aspects, roof attributes, architectural details, materials, moldings, sculptures, fountains, light fixtures, windows, doors, and monuments.

City of Beverly Hills Register. A register containing those Properties and geographical areas formally designated by the City Council as Landmarks or Historic Districts pursuant to the provisions of this Article. The Register also includes Contributing Properties within Historic Districts. Also referred to as the Local Register.

Commission. The Cultural Heritage Commission as defined in Section 10-3-3205 of this Article.

Contributing Property. A Property, including all Buildings, Structures, Objects, and Character-Defining Features located on it that adds or contributes to the significance of a Historic District under criteria set forth in this Article.

Demolition or Demolish. Any act or process that destroys in part or in whole an individual Historic Resource such that the historic character and Character-Defining Features of the Property are completely removed and cannot be repaired or replaced. The terms Demolition or

Demolish shall include, but are not limited to, the act of pulling down, destroying, removing, or razing a Property, or commencing work thereof with the intent of completing the same.

Director. The City's Director of Community Development, or her/his designee.

District. Refer to Historic District

Economic Hardship. The facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the Property or derive a reasonable economic return from the Property in its current form.

Exceptional Significance. A Property having extraordinary importance under applicable evaluation criteria and context as defined in: "Criteria Consideration G: Properties That Have Achieved Significance within the Last Fifty Years" in the "National Register Bulletin: How to Apply the National Register Criteria for Evaluation".

Historic District or District. A geographic area having a significant concentration, linkage, or continuity of Sites, Buildings, Structures, Objects, or Character-Defining Features united historically or aesthetically by plan or physical development that has been designated pursuant to this Article.

Historic Resource. Historic Property. A Property determined to be a historic resource under CEQA, NEPA, Section 106 of the National Historic Preservation Act of 1966, as amended; or any other provision of California law; or a Property listed, nominated, or eligible for listing in the Local Register, including Landmarks, Historic Districts, and Contributing Properties.

Historic Resources Inventory or Local Inventory. A list maintained by the City, which contains all Properties surveyed for historical or architectural significance determined to be eligible Historic Resources and all Properties within neighborhoods or areas determined to be eligible Historic Districts. In creating and maintaining the inventory, surveys, either of individual Properties or of several Properties at once, shall be conducted, and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled: 1) by or on behalf of the City; or 2) by a Qualified Historic Preservation Consultant for a specific Property, in which case the individual survey shall be submitted to, and deemed sufficient by, the Director. The Director shall determine whether an individual survey merits inclusion of the specific Property on the Local Inventory.

Integrity. The ability of a Landmark or Contributing Property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

Landmark. Any Property, including any Building, Structure, Object, place, landscape, or Natural Feature located in it that is listed on the Local Register as approved by the City Council pursuant to this Article.

List of Local Master Architects. A list maintained by the City that includes Master Architects as defined in this Article who have designed properties in the City, and architects, designers and

builders who may not be of recognized greatness, but who have designed or built properties in the City and are of local importance as determined by the City Council on recommendation from the Cultural Heritage Commission.

Local Register of Historic Properties. Refer to "City of Beverly Hills Register"

Maintenance and Repair. Refer to Ordinary Maintenance and Repair

Master Architect. An architect of recognized greatness in the field of architecture who is included on the list of such architects compiled by the Cultural Heritage Commission, and updated from time to time. Refer also to "List of Local Master Architects"

Mills Act. The California Government Code Sections 50280 et seq., as it may be amended from time to time.

National Register of Historic Places. The official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and/or culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966, as amended (16 U. S. C. 470 et seq., 36 C.F.R. Sections 60, 63).

Natural Feature. Any naturally occurring tree, plant, plant community or geographical or geological site or feature.

Nominated Resource. A Property included in the Local Inventory that has been nominated as a Landmark or a Contributing Property of a Historic District for listing on the Local Register as provided for in this Article.

Non-contributing Property. A Property within a Historic District that is not a Contributing Property, as previously defined.

Object. The term "object" is used to distinguish from Buildings and Structures those constructs that are primarily artistic in nature or are relatively small in scale and of simple construction. Although it may be, by nature or design, movable, an Object is associated with a specific setting or environment. Fountains and sculpture are examples of Objects.

Ordinary Maintenance and Repair. Any work that meets the criteria established in 10-3-3219(B) of this Article.

Owner. Any person(s), association, partnership, firm, corporation, or public entity identified as the holder of title on any Property. For purposes of this Article, the term Owner shall also refer to an appointed representative of an association, partnership, firm, corporation, or public entity which is a recorded owner. Absent contrary evidence, the Owner shown on the latest assessment roll of the County of Los Angeles shall be presumed to be the Owner.

Period of Significance. The span of time that a Property or geographic area was associated with important events, activities, or persons, or attained the Character-Defining Features that qualify it for designation as a Landmark or Historic District.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and/or materials of a Historic Resource.

Property. The entirety of a Site, including the Buildings, Structures, landscaping, Objects, and other physical aspects of the location, regardless of historic designation.

Property within a Historic District. Refers to both the Contributing Properties and Non-Contributing Properties. For the definition of "Contributing Properties in Historic Districts" refer to "Contributing Property".

Qualified Historic Preservation Consultant. A consultant that meets the Secretary of the Interior's Professional Qualifications Standards, as defined in 36 C.F.R. 61, or its successor.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a Building, Structure, Object, landscape, or a part thereof, as it appeared at a specified period of time prior to alteration or demolition.

Register of Historic Properties (Register). Refer to "City of Beverly Hills Register"

Rehabilitation. Any act or process of making a compatible use for a Property through repair, alterations, and additions while preserving those portions or Character-Defining Features which convey its historical, cultural, or architectural values.

Relocation. The act or process of moving all or part of a Historic Resource from one site to another site, or to a different location on the same site.

Resource. Refer to Historic Resource.

Restoration. The act or process of accurately refurbishing the form and details of a Property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Secretary of the Interior's Standards. The "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" found at 36 C.F.R. 68.3, as it may be amended from time to time.

Significant Persons. Refers to individuals associated with Beverly Hills, in the past, whose activities, achievements, and contributions are demonstrably important within the City, state, or nation and directly associated with a Property. The Property must be associated with the person during the period that the person's significant achievements and contributions occurred. A person would not be considered historically significant by virtue of position/title, affiliation, race, gender, ethnicity, or religion.

Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a Building, Structure, or Object, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing construction.

Stabilization. The act or process of applying measures designed to re-establish a weather resistant enclosure or the structural stability of an unsafe or deteriorated Property while maintaining the essential form as it exists at present.

State Historical Building Code. Part 2.7 of the California Health and Safety Code, commencing with Section 18950, and the regulations promulgated there under, as they may be amended from time to time (Cal. Code Regs., Title 24, Part 8).

Structure. The term "structure" includes both Buildings and other generally functional constructions made for purposes other than housing human activity, such as reservoirs and retaining walls.

Substantial Alteration. Any destruction, Relocation, or Alteration activities that would materially change a Historic Resource's Character-Defining Features or impair its historical significance.

Survey. A systematic and standardized process for identifying and gathering data on the City's potential Historic Resources by which Properties are documented and evaluated for inclusion on the Local Inventory and potential eligibility for listing on the City's Register, the California Register, or the National Register.

10-3-3203: INTENT, PURPOSE, AND AUTHORIZATION:

The intent and purpose of this ordinance is to provide the ability to acknowledge, honor, and encourage the continued maintenance and preservation of those select properties in the City that, through exceptional architecture, contribute to the City's cultural history. The standards and requirements in this Article are intended to be flexible taking into account financial feasibility on the part of a property owner to meet the Article's provisions. Further, it is the intent and purpose of this Article to promote the public health, safety, and general welfare by providing for the identification, recognition, designation, protection, enhancement, perpetuation, and use of Historic Resources that reflect associations important in the City's history, and to:

A. Safeguard the character and history of the City which is reflected in its unique architectural, historical, and cultural heritage;

B. Foster civic and neighborhood pride and a sense of identity based on the recognition of the City's past accomplishments as reflected through its Buildings, Structures, Objects, landscaping, Natural Features, infrastructure, and engineering;

C. Promote public education and awareness by preserving and encouraging interest in Beverly Hills' cultural, social, and architectural history;

D. Strengthen the City's economy by protecting and enhancing the City's attractions to residents, tourists, visitors, and others, thereby serving as a stimulus and support to local business and industry;

E. Enhance property values, stabilize neighborhoods, and render City Landmarks and Contributing Properties in Historic Districts eligible for financial benefits and incentives;

F. Acknowledge the critical role served by owners of City Landmarks and Contributing Properties in Historic Districts in furthering the goal of historic preservation pursuant to the City's General Plan;

G. Encourage preservation and adaptive reuse of Landmarks and Contributing Properties in Historic Districts by allowing changes to historic Properties to accommodate new functions, and not to "freeze" historic Properties in time;

H. Identify financial and other incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate, and improve Landmarks and Contributing Properties in Historic Districts.

10-3-3204: ADMINISTRATIVE GUIDELINES:

The Director is authorized to develop and make publically available Guidelines for the Designation and Preservation of Historic Resources and other support documents as necessary or desirable to implement this Article. These administrative guidelines shall serve as baseline standards for evaluation and designation of Historic Resources, and processing Certificates of Appropriateness pursuant to this Article.

The administrative guidelines shall include a process for the Director to determine that a property is, at a certain time, ineligible for designation, which determination shall remain valid for a five (5) year period.

10-3-3205: PERMIT REQUIRED:

No permit shall be issued for any activity regulated by this Article unless and until the proposed activity has been granted final approval or conditional approval pursuant to the provisions of this Article, and then the permit shall be issued in conformity with such approval or conditional approval.

10-3-3206: MINIMUM MAINTENANCE REQUIREMENTS:

Every owner of and every person in possession or control of a Landmark Property or Contributing Property, to the maximum extent practicable, shall maintain and keep the Property in good repair, as defined in Sections 5-7-3 and 5-7-4 of this Code. In the case that a Property constitutes a public nuisance or is subject to vandalism, the City may issue any order it deems appropriate to prevent further vandalism or public nuisance pursuant to Section 1-3-101, and Section 5-7-6 of this Code.

`10-3-3207: CULTURAL HERITAGE COMMISSION:

A. **Establishment of Commission.** There is hereby established the Cultural Heritage Commission. The Commission shall have and exercise the powers and perform the duties set forth in this Article with respect to historic preservation.

B. **Appointment and Qualifications.** The Commission shall be composed of five (5) members appointed by the City Council, all of whom shall be residents of the City. Members of the Commission shall have the duties and functions set forth in this Article.

The Commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two of the Commissioners should be professionals who meet the qualifications for certain professional disciplines, including those outlined by the U.S. Secretary of the Interior, Code of Federal Regulations, 36 CFR Part 61. These professional disciplines include history, architecture, architectural history, planning, pre-historic and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines such as urban planning, American studies, American civilization, or cultural geography, to the extent that these professionals are available in the community. Of the five members, at least one should be a registered architect, licensed contractor, or a California real estate licensee.

C. **Term.** The term of office for each Commissioner shall begin with the first day of March and shall be an initial term of two (2) years, except that three of the initially appointed Commissioners shall be appointed for an initial term of four (4) years. Each Commissioner shall thereafter have the opportunity for reappointment to an additional 4-year term. An appointment to fill a vacancy on the Commission shall be for the period of the unexpired term.

D. **Rules and Orders.** The City Council shall appoint the first chair and vice chair of the Commission. Thereafter, the Commission shall elect officers and establish its own rules and regulations, which shall be consistent with the Cultural Heritage Commission Bylaws and this code. Copies of the Commission's Bylaws shall be kept on file in the office of the City Clerk. The Commission shall keep a record of its resolutions, proceedings, and transactions, and the City Clerk shall be the repository for all such records.

E. **Secretary of the Commission.** The Director shall assign an employee of the Community Development Department, other than the Director, to be the Secretary of the Commission, and assign duties to the employee which shall be in addition to the duties regularly prescribed for that employee.

The Secretary shall attend Commission meetings and keep a record of the proceedings and transactions of the Commission, specifying the names of the Commissioners in attendance at each meeting and the ayes and noes upon all roll

calls. The Secretary shall, among other duties, post and publish all orders, resolutions, and notices which the Commission shall order to be posted and published.

F. **Scheduled Meetings.** The Commission shall meet at least four times per year. In the event the Commission has more than one regular meeting per quarter, the term "regular meeting" shall mean the first such meeting in any given quarter. The Commission shall establish a time and place for regular meetings to be held. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Cal. Gov. Code Section 54950 et seq.). The Commission chairperson shall have the authority to call and notice special meetings in a manner specified in the Ralph M. Brown Act.

G. **Quorum and Actions of the Commission.** A majority of the members of the Commission must be present at any meeting to constitute a quorum. The powers conferred upon the Commission shall be exercised by resolution or motion and adopted by a majority vote of the members present and recorded in the minutes with the ayes and noes. The action shall be attested to by the signature of the Secretary of the Commission.

H. **Commission Authority in Development Review.** When this Article is applicable in the review of a project consisting of a development entitlement pursuant to other articles of Title 10 of the Municipal Code, the Cultural Heritage Commission shall be authorized to review all development entitlement applications for the project in its entirety unless any part of the development entitlement would require approval of the Planning Commission, in which case the Planning Commission shall be the Commission authorized to review all development entitlement applications for the project in its the entirety, including application of this Article.

10-3-3208: POWERS AND DUTIES OF THE COMMISSION:

Unless otherwise specified herein, the duties of the Cultural Heritage Commission shall be as follows:

A. Exercise the authority set forth in this Article and as otherwise provided in this Code;

B. Inspect, investigate, and recommend for designation by the City Council Landmarks and Historic Districts, and make any preliminary or supplemental determinations or conclusions in order to implement this Article;

C. Review a City-wide Survey of Historic Resources, which is periodically updated, and other Surveys on a case-by-case basis, and recommend adoption of the Survey conclusions by the City Council;

D. Compile or cause to be compiled and maintained a Local Register listing and describing all designated Landmarks, Historic Districts, and Contributing Properties within the City;

E. Compile or cause to be compiled and maintained a List of Local Master Architects as defined by the Article;

F. Conduct studies and evaluations of applications or proposals seeking the designation of potential Landmarks and Historic Districts, make determinations and recommendations as appropriate for consideration of such applications, and make any preliminary or supplemental determinations or conclusions, in order to implement this Article;

G. Develop designs for suitable signs, plaques, or other markers that may be placed, at private expense, on or near a designated Landmark, Historic District, or Contributing Property indicating that the Resource has been designated as such;

H. Review and approve applications for Certificate of Appropriateness and Certificates of Hardship, as applicable;

I. Recommend, promulgate, and amend, from time to time, such rules and regulations as it may deem necessary to implement the purposes of this Article;

J. Assume the responsibilities and duties that may be assigned to the Commission by the City under the Certified Local Government provisions of the National Historic Preservation Act of 1966, as amended, including but not limited to, compliance with the National Environmental Protection Act (NEPA) and the California Environmental Quality Act with regard to historic resources;

K. Review and make recommendations to the City Council on Mills Act contracts.

L. Upon request, advise the City Council, City departments, and City commissions on the significance of historic resources as defined by CEQA and recommend to the City Council, City departments, and City commissions appropriate action in compliance with the City's adopted CEQA procedures;

M. Provide recommendations to the City Council regarding the utilization and promotion of incentives and grants from federal and state agencies, private groups, and individuals, and regarding budgetary appropriations to advance the preservation of Historic Resources in the City;

N. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to Historic Resources, and provide public participation in all aspects of the City's historic preservation program;

O. Coordinate with other local, County, State, and Federal governments in the pursuit of the City's historic preservation goals;

P. Upon request, review and make recommendations to the Planning Commission on zoning and general plan amendments related to preserving Historic Resources;

Q. Develop a program to celebrate Historic Resources, and recognize outstanding maintenance, rehabilitation, and preservation of Landmarks, Historic Districts, and Contributing Properties;

R. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year in accordance with the requirements of the Certified Local Government program;

S. Perform any other functions that may be designated by resolution or motion of the City Council (Ord. C-6961 Section 1 (part), 1992).

10-3-3209: PRESERVATION INCENTIVES:

The City Council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve City Landmarks, Historic Districts, and Contributing Properties. Preservation incentives shall be made available to owners of Landmarks and Contributing Properties.

10-3-3210: ESTABLISHMENT OF A LOCAL INVENTORY OF HISTORIC RESOURCES:

The Commission, acting with the administrative support of the Director or his or her designee, shall maintain a Local Inventory of eligible Historic Resources and all Properties within areas identified to be eligible Historic Districts within the City as such is defined and provided for in the CEQA Guidelines Section 15064.5(a) (2), and shall periodically review, amend, and update the Local Inventory. Resources listed on the City's Historic Resources Inventory, or individually assessed and identified as potentially eligible, are eligible for nomination to the City's Local Register of Historic Properties.

10-3-3211: ESTABLISHMENT OF A LOCAL REGISTER OF HISTORIC PROPERTIES:

A Local Register of Historic Resources is hereby created. The purpose of the Local Register is to provide a means to preserve, protect, and enhance the most significant Historic Resources within the community. Properties listed on the Local Register may be identified on-site with an exterior marker or plaque displaying pertinent information about the Resource. A record of Properties on the Local Register shall be kept by the City, and shall be provided to the Regional Information Center of the State Office of Historic Preservation and other agencies as required.

10-3-3212: LANDMARK DESIGNATION CRITERIA:

A nominated Property may be designated as a Landmark if it is more than 45 years of age and satisfies the requirements set forth below.

Properties that are less than 45 years of age can be designated, but in addition to meeting the criteria below, they must also exhibit Exceptional Significance as defined in this Article.

For the purposes of this section, any interior space or spaces open to the general public, including but not limited to a lobby area, may be included in the Landmark designation of a Property if the City Council finds that the public space(s) satisfies the following criteria.

To be designated as a Landmark, a Property must satisfy the following three criteria:

A. The Property meets at least two of the following criteria:

1. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the Nation, State, City, or community;

2. Is directly associated with the lives of Significant Persons important to national, state, City or local history;

3. Embodies the distinctive characteristics of a style, type, period, or method of construction;

4. Represents a notable work of a person included on the City's List of Master Architects or possesses high artistic or aesthetic value;

5. Has yielded or has the potential to yield, information important in the prehistory or history of the Nation, State, City, or community;

6. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places, or is listed or has been determined eligible by the State Historical Resources Commission for listing on the California Register of Historical Resources.

B. The property retains integrity from its Period of Significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3212 (A) of this section. A proposed Landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.

C. The Property Has Historic Value. The proposed Landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a Landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this Article.

10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:

A. **Historic District Designation Criteria:** A geographic area may be designated a Historic District if the proposed District is found to meet the following seven criteria

1. At least seventy percent (70%) of the Properties in the proposed District have been identified as Contributing Properties.

2. The District meets at least two of the following criteria:

   a) Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the Nation, State, City, or community;

   b) Is directly associated with the lives of Significant Persons important to National, State, City or local history;

   c) Embodies the distinctive characteristics of a style, type, period, or method of construction;

   d) Represents a notable work of a person included on the City's List of Master Architects or possesses high artistic or aesthetic value;

   e) Has yielded or has the potential to yield, information important in the prehistory or history of the Nation, State, City, or community;

   f) Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places, or is listed or has been formally determined eligible by the State Historic Preservation Office for listing on the California Register of Historical Resources.

3. The proposed District retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3213 (A) of this Article. A proposed Contributing Property's or District's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.

4. The nominated District is of significant architectural value to the community, beyond its simple market value, and its designation as a District is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this Article.

5. The District is a contiguous or non-contiguous grouping of thematically related Properties, or a definable area possessing a concentration of historic, scenic, or thematic Sites, which contribute to each other and are unified aesthetically by plan, physical development, or architectural quality.

6. The District reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.

7. The proposed designation is in conformance with the purpose of the City's historic preservation provisions set forth in this Article and the City's General Plan.

B. Consideration Factors: In determining whether a geographic area meets the criteria in substation A above, the following factors shall be considered:

1. The Historic District should have Integrity of design, setting, materials, workmanship, and association.

2. The collective historic value of the Properties in a Historic District taken together may be greater than the historic value of each individual Property.

10-3-3214: STREET IMPROVEMENTS IN HISTORIC DISTRICTS:

Whenever streetscape improvements are proposed by the City in areas that are designated Districts, the City shall consider the use of materials, landscaping, light standards, and signage that are compatible with the area's historic and architectural character.

10-3-3215: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:

A Property, or Properties, included in the Local Inventory may be designated as a Landmark or Historic District, respectively, and added to the City's Local Register in accordance with the procedures set forth in this section.

A. City Council or Commission Initiation of Nomination Proceedings. Any Property, or Properties, may be nominated for designation as a City Landmark or Historic District, respectively, by the City Council or Cultural Heritage Commission. Initiation by the City Council or the Commission shall be by majority vote. The City Council or the Commission shall forward the initiation to the Director for a report and recommendation.

B. Application for Nomination by a Property Owner or Property Owners. If proposed by the property owner, an application for the proposed designation shall be completed on a form provided by the Department, and shall include all information required, payment of required fee, and filing of the application with the Department. In the event that Owners wish to nominate an area for

designation as a Local Historic District, the Owners of more than 50 percent of property in the proposed District must demonstrate support for the application. The Director shall conduct an evaluation of the proposed designation and shall make a recommendation to the Commission as to whether the application warrants formal consideration.

C. **Initial Notification to the Property Owner.** Within ten (10) days of a decision by the City Council or Commission to initiate nomination proceedings, or of the filing of a designation application, the Owner(s), designated agent or agents, and tenants of the subject Property(ies), if applicable, shall be notified by mail of the intent to have the Commission consider the preliminary evaluation of the Property(ies). Once completed, the Owner(s) or designated agent or agents shall receive a copy of the evaluation assessment report.

D. **Preliminary Consideration of the Property Owner Application by the Commission.** When nomination procedures are initiated by an Owner(s), a hearing to determine whether the Property(ies) warrant formal consideration by the Commission shall be scheduled within sixty (60) days of filing of an application. If, based on the criteria set forth in section 10-3-3212 or 10-3-3213 the Commission determines that the application warrants formal` consideration, it shall schedule a public hearing within forty-five (45) days of such determination. A decision that an application does not warrant formal consideration shall be a final action of the Commission, which is appealable pursuant to Article 2 of Chapter 4 of Title 1 of the Municipal Code. Any determination of the Commission regarding whether an application warrants formal consideration shall be in writing, shall be filed by the Commission Secretary with the Director, and shall be provided to the Owner(s).

E. **Notice of Public Hearing.** Written notice of the date, time, place, and purpose of a public hearing to formally consider an application shall be given by first class, prepaid mail not less than ten (10) days prior to said hearing to the applicant and all Owner(s) of the Property proposed for nomination. A public hearing notice regarding designation of a Historic District shall be provided to all Owners within the proposed District. Failure to send notice by mail to any such Owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. When the Owner(s) petition the City for designation, it is the petitioner's obligation to furnish to the Director a current list of names and legal mailing addresses of all Owners to be notified, and to pay such fee to cover the costs of providing notification as shall be established by resolution of the City Council. When the proposed designation is by City initiative, the Community Development Department shall be responsible for preparing the notification list. The Commission may also direct that other notice be provided as it deems appropriate.

F. **Interim Protection Measures.** Upon initiation by the City Council or Commission, or upon determination that the application submitted by an Owner(s) warrants formal consideration by the Commission, any alteration,

restoration, construction, removal, relocation, or demolition, in whole or in part, of a nominated Property or Property located in a nominated District is prohibited, and no permits shall be issued by any City department, board, or commission, including but not limited to a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, any administrative approval, design review approval, or architectural review approval. No building permit authorizing any alteration, restoration, construction, removal, relocation, or demolition shall be granted while a nominated Property or Property within a nominated District is under consideration or any appeal related thereto is pending. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the nominating process. Permits may be issued to mitigate an immediate threat to the public health, safety, and welfare.

G. **Findings.** At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty-five (45) days from the date set for the initial public hearing, the Commission shall recommend approval, in whole or in part, or disapprove the application for the designation of the nominated Property or District. The decision of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the decision, and such decision shall be filed with the Director. If the Commission fails to take action on the application for the nominated resource within the forty-five (45) day time period, the application for such designation shall be deemed disapproved, and it shall be the duty of the Director to certify such disapproval. Upon the Commission's rendering of a decision regarding nomination of a Property or District, the Director shall give written notification to the Owner(s) of the subject Property or Owners of Properties in the proposed District.

H. **Recommendation or Action by Commission.** The Commission shall base its action or recommendation on the criteria, considerations and assessment of integrity and significance outlined in this Article. If it recommends listing the nominated Property or District on the Local Register as a Landmark, the Commission shall specify the significant elements or Character-Defining Features of the nominated Historic Resource. In the case of a recommendation for listing of a Historic District on the Local Register, the Commission shall identify all Properties that contribute to the area's designation as a District (Contributing Properties) along with the Buildings, Structures, and Objects located on each, and all Character-Defining Features. Properties, Buildings, Structures, Objects, features and other resources that happen to be located within the District, but that have no relevance to the area's identified period of significance, significant physical features, or identifying historic characteristics, shall be deemed Non-Contributing Properties.

Decisions of the Commission to disapprove nominations shall be in writing setting forth the basis for rejection. Only an owner of property subject to the designation proceedings shall have the authority to appeal. The City Council shall have the authority to call such decisions for review pursuant to the provisions of Article 2 of Chapter 4 of Title 1 of the Municipal Code.

I. **Hearing and Decision by the City Council.** The City Council shall consider the matter as soon as practicable after receiving the Commission's recommendation or after receiving a timely appeal of a Commission decision rejecting the proposed nomination. The City Council by written resolution may approve, reject, or give modified approval to an application for the designation of a nominated Property or District. The City Clerk shall then notify the Owner(s) of the Property or the Owners of Property in the District of the City Council's action.

J. **Historic Resource Resolution.** The resolution designating a Landmark, Historic District, or Contributing Property within a Historic District shall include:

1. A description of the particular characteristics that justify the designation and which should therefore be preserved;

2. The reasons for designation;

3. A set of general guidelines to establish standards for future proposed changes; and

4. Delineation of the location and boundaries of the designated Resource or Resources.

K. **Recordation of Resolution.** A certified copy of such resolution shall be recorded in the office of the county recorder of the county of Los Angeles by the city clerk immediately following its effective date. The city clerk shall also send a copy of said resolution to the Director, the Director of Public Works and Transportation, the Building Official, the Owner(s), and the occupant(s) of the Property or Properties. The document to be recorded shall contain:

1. A legal description of the Property or Properties;

2. The date and substance of the designation;

3. A statement explaining that demolition, alteration, or relocation of the Property is restricted; and

4. A reference to this Section authorizing the recordation.

L. **Disapproval of Nominated Resource.** Whenever an application for designation of a Property or Properties as a Landmark or District, respectively, has been rejected by the Commission or by the City Council, no application that contains the same or substantially the same information as the one disapproved shall be resubmitted to or reconsidered by the Commission within a period of five (5) years from the effective date of the final action on the prior application. However, if significant new information is made available and provided by and at the expense of the Owner(s), the Director may waive the time limit and permit a new application to be filed.

M. **Disapproval of Deletion of a Listed Resource.** Where an application for repeal of a listed Historic Resource from the Local Register has been denied, no new application to delete the same listed Resource may be filed or submitted for a period of one year from the effective date of the denial.

N. **Effect of Designation.** Upon designation, and thereafter, the provisions of this Article shall apply to the designated Property, Historic District, and Properties within the Historic District. From and after the adoption by the City Council of a resolution designating the Property(ies) a local Landmark or Historic District, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of the Property, or of Contributing Properties within Historic Districts, is subject to the provisions of this Article. The Owner(s) of such Property(ies) shall maintain and preserve the Historic Resource at such a level that it does not become a safety hazard to the occupants or to the public.

10-3-3216: AMENDMENT OR RESCISSION OF LANDMARK OR HISTORIC DISTRICT DESIGNATION:

Once a Landmark or Historic District designation is made, it shall not be repealed by the City Council unless it is determined at any time 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 Landmark or Historic District no longer meets the criteria for designation under Section 10-3-3212 or Section 10-3-3213, respectively, due to damage caused by natural disaster (e.g. flood, earthquake, etc.) or reasons otherwise outside of the control of the Owner.

Changes of use, differences of opinion of subsequent City Councils, desires of property owners, or financial considerations are not sufficient reasons to repeal a designation. The repeal of a Landmark or Historic District may be initiated by the Commission, the City Council, or an Owner. The City Council must consider an application for repeal of a previously designated Landmark or Historic District utilizing the same procedures for designation as provided by this Article. If the determination of Landmark or Historic District status is repealed, the City's Register of Historic Properties shall be updated accordingly.

10-3-3217: PENDING DEMOLITION, ALTERATION OR RELOCATION – TEMPORARY PROTECTIONS PENDING DESIGNATION:

Upon the determination by the Director that an Owner's application for Landmark or Historic District designation is substantively complete, or upon initiation by the City Council or the Commission, no permit shall be issued and no work shall be performed on the Property or Properties pursuant to 10-3-3215 F (Interim Protection Measures) pending final determination on whether the Property or Properties, respectively, shall be designated as a Landmark or a Historic District. No building or demolition permit shall be issued for a proposed Landmark or for any eligible Contributing Property identified in a proposed Historic District, until a final determination has been made regarding designation.

The Commission shall deny or recommend designation, and the City Council shall act on any recommended designation. If, after the expiration of the final period of time to act, the City Council has not taken an action on the application or initiation to designate, then any pending permit(s) may be issued and demolition, alteration, or relocation of the Property may proceed.

If the Commission or City Council determines, in a final decision, that the Property or Properties proposed to be designated does not or do not meet the evaluation criteria for Landmark or Historic District designation set forth in Sections 10-3-3212 or 10-3-3213 of this Article, then the temporary prohibition on the issuance of a permit to demolish, alter, or relocate the nominated Property or nominated Contributing Property within a nominated Historic District shall terminate.

10-3-3218: HOLD PERIOD FOR PERMITS TO ALTER CERTAIN BUILDINGS, STRUCTURES AND OBJECTS 45 YEARS OF AGE AND OLDER:

Any work involving a change in design, material, or appearance proposed on a property forty-five (45) years or older and designed by a person listed on the City's List of Master Architects shall be subject to a thirty (30) day holding period prior to the issuance of permits. Permit applications may be processed, but no final action shall be taken until after the thirty day period has ended. The Director may waive the thirty (30) day holding period if the Director determines that the Property is not eligible for listing on the Local Register, or that the proposed work would not alter any Character-Defining Features, or that the work would comply with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings." Work proposed on locally designated Landmarks, Historic Districts, and Properties within a Historic District is subject to the provisions of this Article and may require a Certificate of Appropriateness.

10-3-3219: CERTIFICATE OF APPROPRIATENESS

A. **Certificate of Appropriateness Required – Designated Landmarks and Contributing Properties.** No person, Owner, or other entity shall restore, rehabilitate, alter, develop, construct, demolish, remove, or change the exterior appearance of a designated Landmark or Contributing Property within a designated Local Historic District without first having applied for and been granted a Certificate of Appropriateness or Certificate of Economic Hardship exemption, unless the work proposed qualifies as Ordinary Maintenance and Repair as defined in this Article. Further, a Certificate of Appropriateness or Certificate of Economic Hardship exemption may be required for alterations, demolition, new construction, and exterior changes in appearance of Non-Contributing Properties in a Historic District, as provided below.

B. **Ordinary Maintenance and Repair Exemption.** A Certificate of Appropriateness shall not be required for ordinary maintenance and repair of a designated Landmark or Property within a Historic District. Ordinary maintenance and repair shall mean work on a Landmark property or Property within a Historic District that meets the following conditions:

1. Does not, by law, require issuance of a permit; and

2. Involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition; and

3. Does not involve a change of design, material, or appearance of the property.

C. **Standards for Review of Non-contributing Properties in a Historic District.** Any construction or demolition work proposed on Non-contributing Properties shall be reviewed to assure that the work is undertaken in a manner that does not impair the essential form and Integrity of the historic character of the District.

1. Unless otherwise exempt pursuant to this Article, a Certificate of Appropriateness shall be required prior to issuance of a permit for the following activities involving Non-contributing Properties:

a) Demolition of any Building, Structure, or Object;

b) New construction, including new Buildings, Structures, and Objects, and new ancillary features such as fences, gates and walls; and

c) Remodeling and additions, including increases in the number of stories.

A Certificate of Appropriateness for work proposed on a Non-Contributing Property shall be reviewed in the same manner as a Certificate of Appropriateness for work proposed on a Landmark or Contributing Property.

D. **Administrative Review.** A Certificate of Appropriateness may be issued by the Director or his or her designee for work described in this subsection D that meets the following conditions:

1. Requires a permit, and

2. Does not involve a change of design, material, appearance, or a change in visibility of the character defining features or overall significance of a designated Landmark or Property within a Historic District.

All proposed work on a Landmark or Contributing Property shall comply with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings." All proposed work on a Non-contributing Property shall comply with the standards set forth in the above paragraph C of this Section.

If the Director determines that the proposed work would not result in a change of design, material, appearance or visibility of the property's character-defining features and overall historical significance, and does not have the potential for a discrepancy between the proposed work and the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings," the Director shall approve the Certificate of Appropriateness.

If the Director determines that the proposed work may result in a change of design, material, appearance or visibility of the property's character-defining features and overall historical significance, or has the potential for a discrepancy between the proposed work and the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings," the Director shall refer the Certificate of Appropriateness to the Commission for review

If the Director determines that the proposed work would result in a change of design, material, appearance or visibility of the property's character-defining features and overall historical significance, or would create a discrepancy between the proposed work and the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings," the Director may deny the Certificate of Appropriateness or refer the Certificate of Appropriateness to the Commission for review.

A Certificate of Appropriateness shall be acted upon by the Director within 21 days of receipt of a complete application.

Work that may be approved pursuant to administrative review includes, but is not limited to, the following:

In-kind replacement of historically accurate architectural features or building elements that are deteriorated, damaged beyond repair, or previously removed, including windows, doors, exterior siding, porches, cornices, balustrades, and stairs.

In-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed, including gates, fences, walls, hedges, pergolas, gazebos, walkways, and planting beds.

Replacement or repair of roof covering materials, gutters, and downspouts, with no change in appearance.

Foundation work and repainting of bricks on the exterior of a structure, with no change in appearance.

Addition of new fences and walls.

Addition or replacement of awnings and building mounted signs.

Landscape alterations, or removal or installation of tree and plant material not specifically designated or listed as Character-Defining Features to the designated Resource.

New paving for driveways, walkways, and/or patios.

Repainting of exterior surfaces that were originally intended to be painted. No surfaces that were not intended to painted shall be painted including unpainted brick, concrete, or stone surfaces.

Installation of new exterior lighting.

Removal of additions intended to restore the original appearance of a Building, Structure, or Object.

Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances not visible from a public street or any property at street level which result in no change in appearance to the Property.

One-story residential additions, excluding attached garages, that are no more than 15% of the size of the existing main residence and have limited or no visibility to public rights-of-way and adjacent properties.

Other minor rehabilitation work as determined by the Director.

E. Commission Review.

When a Certificate of Appropriateness application is referred to the Commission for review, a complete application shall be one that includes a report from a Qualified Historic Preservation Consultant detailing the project's compliance with, and potential deviation from the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings."

When a Certificate of Appropriateness is requested for demolition or relocation of a Landmark or Contributing Property, additional supporting materials and justification shall be required as specified in the City's Administrative Guidelines.

Upon receipt of a complete application, the Commission shall act on the Certificate of Appropriateness within 75 days. The time limits in this section shall be extended by the Director when necessary to comply with the provisions of CEQA or with the written consent of the owner. A public hearing shall be scheduled and notice provided per this Article and CEQA where applicable. The time, place, and purpose of the public hearing on the proposed Certificate of Appropriateness shall be given by mailing written notice to the Owner or Owner's

representative at least ten (10) days prior to the date of the hearing. Notice to the Owner or the Owner's representative shall be sent via certified mail, return receipt requested.

The applicant for a Certificate of Appropriateness may make submissions to the Community Development Department of any or all relevant information. Based on this and any other relevant information, the Commission shall take into consideration the reasonable economic, environmental, and technical feasibility of the work in determining whether to issue a Certificate of Appropriateness.

The Commission shall issue a Certificate of Appropriateness if it finds that the work:

1. Complies with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings"; or

2. Does not demonstrate strict compliance with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.", but nonetheless protects and preserves the historic and architectural qualities and the Character-defining Features that make the Property a Landmark or Contributing Property; or

3. Meets the criteria established for demolition, alteration, or relocation of a Resource in the City's Administrative Guidelines.

10-3-3220: CERTIFICATE OF APPROPRIATENESS TERM, EXTENSION, MODIFICATION:

A. Term.

1. **General.** A Certificate of Appropriateness shall lapse and become void 24 months from the date of issuance, unless a building permit (if required) has been issued and the rights granted by the permit or Certificate have been exercised and are being pursued to completion. For purposes of this section, the term "exercised" means substantial expenditures in good faith reliance upon the permit or Certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or Certificate shall be placed upon the permit or Certificate holder.

2. **Certificate of Appropriateness for Demolition.** A Certificate of Appropriateness for the demolition of a property shall expire at the end of one hundred eighty (180) days from the date of issuance of the Certificate of Appropriateness, unless a demolition permit or a building permit for the demolition work has been obtained and the rights of the permit or Certificate are being exercised and pursued to completion. For purposes of this section, the term "exercised" means substantial expenditures in

good faith reliance upon the permit or Certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or Certificate shall be placed upon the permit or Certificate holder.

B. Extensions.

1. **General.** Except as provided below for Certificates of Appropriateness authorizing demolition, so long as the approved plans have not been modified, a Certificate of Appropriateness may be extended for a period of up to an additional twelve (12) months upon request by the Owner and submittal of an appropriate application and payment of applicable fees. The Director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the City's Administrative Guidelines.

2. **Demolition.** A Certificate of Appropriateness for the demolition of a Property may be extended for a period of up to an additional forth-five (45) days upon request by the Owner and submittal of an appropriate application and payment of applicable fees no later than thirty (30) days prior to expiration. The Director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the City's Administrative Guidelines.

C. Modifications. An application to modify an issued Certificate of Appropriateness, or a condition of approval imposed thereon, shall be heard and considered in the same manner and by the same body as the original review application unless otherwise determined by the Director. Payment of applicable fees is required upon submitting an application.

10-3-3221: CERTIFICATE OF ECONOMIC HARDSHIP.

A. The Commission may issue a Certificate of Economic Hardship to allow alteration, demolition, or relocation of a Landmark or Property within a Historic District when it has been demonstrated that 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 as requested by the Director:

1. The estimated market value of the Property in its current condition.

2. The estimated market value of the Property after completion of the proposed alteration or demolition.

3. Estimates of the costs of the proposed alteration or demolition.

4. In the case of demolition, the estimated market value of the Property after Rehabilitation 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 Structures 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. The remaining balance on any mortgage or other financing secured by the Property and annual debt service, if any, for the previous two (2) years.

8. All appraisals obtained within the previous two (2) years by the Owner or applicant in connection with the purchase, financing, or ownership of the Property.

9. The amount paid for the Property if purchased within the previous thirty six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the Owner 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 or rent, and prices asked, and offers received, if any within the previous two (2) years.

11. Any other information the Director may reasonably require in order to determine whether or not the Property does or may yield a reasonable return to the Owner.

C. 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. The Commission shall not approve any Certificate of Economic Hardship unless it makes all of the following findings:

1. Denial of the application would decrease the value of the subject Property so as to leave no substantial value.

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. 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 upon request.

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

10-3-3222: APPEALS; FINALITY OF DECISIONS FOR CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES OF ECONOMIC HARDSHIP:

Authority to Appeal Decisions. Only the owner of the Property subject to a Certificate of Appropriateness or Certificate of Economic Hardship, or an Owner of Property within a Historic District in which the Property subject to a Certificate of Appropriateness or Certificate of Hardship is located, shall be entitled to file an appeal of a decision on the Certificate. The City Council shall have the authority to call such decisions for review pursuant to the provisions of Article 2 of Chapter 4 of Title 1 of the Municipal Code.

A. **Finality of Director or Commission Decision.** Any decision of the Director or Commission on a Certificate of Appropriateness or Certificate of Economic Hardship under this Article shall become final if no appeal is submitted within the applicable appeal period and the decision is not called for review by the City Council pursuant to the provisions of Article 2 of Article 2 of Chapter 4 of Title 1 of the Municipal Code.

B. **Appeal of Director Actions.** Appeals of a final decision by the Director pursuant to this Article may be appealed to the Commission within fifteen (15) days from the date of the decision pursuant to the procedures set forth in Article 2 of Chapter 4 of Title 1 of the Municipal Code.

C. **Appeal of Commission Actions.** Appeals of a final decision by the Commission may be appealed to the City Council within fifteen (15) days from the date of the decision pursuant to the procedures set forth in Article 2 of Chapter 4 of Title 1 of the Municipal Code, or may be called for City Council review pursuant to the provisions of Article 2 of Article 2 of Chapter 4 of Title 1 of the Municipal Code. The City Council shall act within 90 days after expiration of the appeal period, or within any additional period agreed to by the Property Owner or Owners. Failure to act within the permitted time period shall be deemed a denial of the application.

10-3-3223: HISTORIC RESOURCE DISCLOSURE

A. For purposes of this Section, the following terms shall have the meanings set forth below

1. "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.

2. "Offer to purchase" means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller.

3. "Owner" means any person, co-partnership, association, corporation, or fiduciary having legal or equitable title or any interest in real property.

4. "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

5. "Sale" means a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of California Civil Code Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.

6. "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

B. If real property has been designated by the City of Beverly Hills as a Landmark, a Property within a Historic District, or has been identified in the Local Inventory or any update thereto, the Owner or the selling agent of the Property shall, in any real property transaction, provide the buyer of the Property with notice informing the buyer of the Property's historic status. The Owner or the selling agent shall provide the notice to the buyer before expiration of any inspection contingency period, and in any event before transfer of title.

C. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in Chapter 3 of Title 1 of the Municipal Code. In addition, a buyer who does not receive the notice required by paragraph B of this section may bring a civil action for damages.

D. The disclosure requirements of this Section shall not apply to real estate transactions subject to Civil Code Section 1102.2 or any successor or amended section.

10-3-3224: LIMITED APPLICABILITY TO RENOVATIONS OF PROPERTIES REQUIRED TO COMPLY WITH SECRETARY OF INTERIOR STANDARDS

Notwithstanding anything else set forth in this Article, any Property that is designated a Landmark on the Local Register and the renovation of which is required by legislative enactment by the City of Beverly Hills adopted prior to the adoption of this Article 32 to comply with the Secretary of Interior's Standards for Rehabilitation pursuant to 36 C.F.R. 68.3 (b) and related Guidelines for Rehabilitating Historic Buildings shall be exempt from the provisions in Sections 10-3-3215 F, 10-3-3217, 10-3-3218, 10-3-3219, 10-3-3220, 10-3-3221 and 10-3-3222; provided, however, that any such property shall be subject to all provisions of this Article for Demolition, and for off-site Relocation of significant structures or significant landscaping.

Regardless of the contents of a Historic Resource Resolution, as set forth in Section 10-3-3215 J of this Article, the provisions of the legislative enactment imposed on any Property that is subject to this section shall control with respect to characteristics to be preserved and standards for future proposed changes.

10-3-3225: ENFORCEMENT AND PENALTIES:

A. Any person who violates a requirement of this of Article or fails to obey an order issued by the 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 Title 1, Chapter 3 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 Article is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.

C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a Property for a period not to exceed sixty (60) months from the date the City becomes aware of any alteration or demolition in violation of this Article, 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 Article 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 Article may be enforced by civil action brought by the City. Remedies under this Article 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:

a) A temporary or permanent injunction, or both;

b) 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.

10-3-3226: PRE-EXISTING ENTITLEMENTS AND BUILDING PERMITS:

This Article does not apply to construction, alteration, moving, or demolition of a Property, Building, Structure, or Object pursuant to valid entitlements granted by the City prior to the effective date of the ordinance enacting this Article, or started under a valid building permit issued prior to the effective date of the ordinance enacting this Article, as such entitlements or permits may be extended pursuant to provisions of this Municipal Code and State Laws. Once the work authorized by any such entitlement or building permit has been completed the provisions of this Article apply.

10-3-3227: FEES:

The City Council may, by resolution, establish the fee(s) for submission of a nomination, and all other applications and submissions made pursuant to this chapter.

10-3-3228: CITY-OWNED PROPERTIES; SCHOOL DISTRICT PROPERTIES

A. The provisions of this Article do not apply to City-owned Properties; however the City Council may, in its discretion, add a City-owned Property to the Local Register provided the Property meets the criteria set forth in either Section 10-3-3212 or 10-3-3213 following any process it deems appropriate.

B. The provisions of this Article shall not apply to Properties owned by a public school district, unless a school district files an application requesting Landmark or Historic District designation of its property and the City designates the facility or facilities as a Landmark or Historic District.

10-3-3229: DANGEROUS AND IMMEDIATELY DANGEROUS PROPERTIES:

Nothing in this Article shall prevent the construction, alteration, repair, restoration, stabilization, rehabilitation, or demolition of a Property, regardless of designation, if the Building Official determines the Property creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The Building Official shall notify the Director in writing of a finding that the proposed action is necessary in order to mitigate the unsafe or dangerous condition. In such event, no Certificate of Appropriateness or permit referral shall be required. However, the Building Official shall make all reasonable efforts to consult the Director, or his or her designated representative to determine if there are feasible alternatives to the proposed action that will adequately protect the public health and safety."

Section 9. The City Council hereby amends Sections 102.6, 102.9, and 302.7 of the Uniform Administrative Code set forth in Section 9-1-104 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code to read as follows, with all other Sections of the Uniform Administrative Code listed in Section 9-1-104 remaining without amendment:

"**102.6 Moved Buildings.** It shall be unlawful for any person to move a building or structure into, onto or out of the city without first obtaining a permit from the director of building and safety. The permit fee shall be established by city council resolution. In addition to the applicable requirements specified in paragraph 2 section 102.9, the permittee shall comply with the following:

1) The necessary permits for moving the building or structure across public property shall be obtained in accordance with title 4, chapter 3, article 7 of the Beverly Hills municipal code.

2) Before a permit is issued, the applicant may be required to post a bond in accordance with section 102.10.

3) Compliance with the requirements of this article shall not relieve anyone from any other applicable requirements of this code, including, but not limited to, the provisions of title 4, chapter 3, article 7 of the Beverly Hills municipal code regulating the moving of buildings on or across public streets.

4) The property owner or the owner's representative shall post at the property entrance a notice of intent to move a building, structure or object that is readily visible and either less than 45 years old or 45 years or older and the designer is not included on the City's List of Master Architects, at least ten (10) days prior to issuance of permit whenever the Director of Community

Development determines that the grading, demolition, or construction work will have a significant impact on the surrounding properties.

5) If a building, structure, or object is more than 45 years old and the designer is included on the City's List of Master Architects, the property owner or the owner's representative shall post at the entrance to the property a notice of intent to move at least thirty (30) days prior to issuance of a permit. This requirement can be waived by the Director of Community Development if the property has been specifically surveyed for its potential and has been determined to not be eligible for listing on a Register of Historic Resources.

The Community Development Department shall furnish the sign for notice of intent to move a building, structure or object. Failure to comply with the requirements of this article shall be cause for the city to engage the necessary services or facilities to accomplish the intent of this article, and the city shall charge the owner of the lot or parcel of land for all costs so incurred by the city."

"102.9 Demolition of Buildings, Structures or Objects.

1. It shall be unlawful for any person to demolish any building or structure within the city without first obtaining a permit from the director of building and safety. The amount of the fee for the permit shall be established by city council resolution.

2. The permittee shall comply with the following requirements before a permit may be issued under this section:

(i) The director of building and safety may require that a construction fence be installed. The fence construction material may be required to be adequate to screen the site from view from the public right-of-way.

(ii) Water service shall be maintained on the site for the duration of the demolition and the following construction work.

(iii) When required by other provisions of this code, indemnification bonds and insurance shall be posted.

(iv) All utility companies shall be notified in writing by the owner of the property of the intention to demolish the building or structure.

(v) A permit shall be obtained to remove and fill any basement, pool, sump, or other depression in the surface of the lot or parcel of land.

(vi) A permit shall be obtained to cap the sewer and any drains connecting to the building or structure. The sewer and drains shall be capped at the property line unless otherwise approved by the director of building and safety. The sewer caps shall be inspected and approved by the department.

(vii) The building shall be inspected for the presence of asbestos. If the building is found to contain asbestos, the building owner or his representative shall submit a letter to the director of

building and safety so stating. If the building is found to contain asbestos, then an asbestos abatement permit shall be obtained from the department upon submittal by the applicant of all necessary documentation as required by rule 1403 of the South Coast air quality management district. Demolition permits shall then be issued upon submittal of an asbestos abatement completion certificate by qualified contractors.

(viii) The building shall be inspected for rats and rodents infestation and a report from qualified individuals shall be submitted attesting that the building is free of any rats or rodents prior to issuance of the demolition permit. If the building is found to be infested, then proper eradication measures by qualified individuals shall be implemented and a report attesting to the eradication of the pest problems shall be submitted prior to issuance of the demolition permit.

(ix) If the building, structure or object proposed for demolition is 45 years or older and the designer is included on the City's List of Master Architects, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least thirty (30) days prior to issuance of permit. This requirement can be waived by the Director of Community Development if the property has been specifically surveyed for its potential and has been determined to not be eligible for listing on a Register of Historic Resources, or has been subject to a thirty (30) day hold period pursuant to Beverly Hills Municipal Code Section 10-3-3218 for the same project.

(x) If a building, structure or object proposed for demolition is either less than 45 years old, or 45 years or older and the designer is not included on the City's List of Master Architects, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least ten (10) days prior to issuance of a permit whenever the Director of Community Development determines that the demolition work will have a significant impact on the surrounding properties.

The Community Development Department shall furnish the sign for notice of intent to demolish. Failure to comply with the requirements of this article shall be cause for the city to engage the necessary services or facilities to accomplish the intent of this article, and the city shall charge the owner of the lot or parcel of land for all costs so incurred by the city.

3. Before a demolition permit shall receive final inspection approval and before the pertinent bonds are released, the following requirements shall be met:

(i) All concrete, weeds, debris, stones, or other loose material shall be removed from the lot or parcel of land.

(ii) All basements, pools, tanks, sumps, or other subterranean structures shall be removed and back-filled and the lot properly graded.

(iii) The fence, when required by paragraph 2(i) of section 102.9 is installed and inspected."

"**302.7 Notice of Grading or Construction.** The property owner or the owner's representative shall post at the construction site a notice of intent to do grading or construction that is readily visible at least ten (10) days prior to issuance of permit whenever the Director of

Community Development determines that the grading or construction work will have a significant impact on the surrounding properties.

The Community Development Department shall furnish the sign for notice of intent to do grading or construction."

Section 10. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 11. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

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

Adopted: January 24, 2012
Effective: February 24, 2012

BARRY BRUCKER
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)

BYRON POPE
City Clerk

APPROVED AS TO FORM:

for

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE AICP
Director of Community Development