Attachment 3

Planning Commission Recommendation
Resolution No. 1748

RESOLUTION NO. 1748

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS SUPERSEDING RESOLUTION 1737, AND RECOMMENDING AMENDMENTS TO BEVERLY HILLS MUNICIPAL CODE REGARDING HISTORIC PRESERVATION (AMENDMENTS TO TITLE 10, CHAPTER 3: ARTICLES 2.5, 32 AND 32.5, AND TITLE 9, CHAPTER 1)

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Historic Preservation is a means of preserving, conserving and protecting buildings, structures, objects, sites, landscapes or other artifacts of historical significance. Local historic preservation programs have been established by many cities throughout Southern California.

Section 2. The Council of the City of Beverly Hills previously directed the Planning Commission and the Community Development Department to study and develop a historic preservation program for the City.

Section 3. The Council of the City of Beverly Hills previously adopted an Ordinance amending the Beverly Hills Municipal Code to adopt a Historic Preservation Program and revise noticing related to demolition, relocation, or major alteration of buildings on January 10, 2012.

Section 4. The Planning Commission, at its regular meeting on Thursday, December 11, 2014, considered zone text amendments to the Beverly Hills Municipal Code Article 32 Chapter 3 Title 10 at a duly noticed public hearing, which amendments the Cultural Heritage Commission had reviewed and provided comments for consideration by the Planning Commission. At that time, the Planning Commission adopted a resolution superseding a former resolution adopted on November 21, 2013, and recommending that the City Council adopt amendments to Beverly Hills Municipal Code, Article 32: Historic Preservation Ordinance, and revised noticing requirements.

Section 5. A Liaison Committee of the City Council, the Planning Commission, and the Cultural Heritage Commission of the City of Beverly Hills, met on January 15, 2015 to discuss the proposed Ordinance recommended by the Planning Commission. The Liaison Committee directed the Planning Commission representatives to continue working with the Cultural Heritage Commission and other stakeholders on drafting Ordinance revisions. Thereafter, the Cultural Heritage Commission reviewed subsequent drafts of the Ordinance and provided feedback to the Planning Commission. Further revisions evolved through the input received from the various bodies, and were presented to the Planning Commission for consideration and potential recommendation to the City Council.

Section 6. The Planning Commission of the City of Beverly Hills, at a special meeting on Thursday, May 28, 2015, considered zone text amendments to the Beverly Hills Municipal Code: Article 32 Chapter 3 Title 10 as set forth in Exhibit A at a duly noticed public hearing.

The Planning Commission received oral and documentary evidence relative to the proposed amendments and public comment. The substantive changes being proposed to Beverly Hills Municipal Code Title 10, Chapter 3, and Title 9, Chapter 1, include the following:

1. Revise select definitions (BHMC §10-3-3202);

2. Revise the Intent and Purpose of the Ordinance (§10-3-3203);

3. Revise the Powers and Duties of the Commission (§10-3-3208);

4. Revise Landmark and Historic District Designation Criteria (§§10-3-3212; -3213);

5. Revise Landmark and Historic District Designation Proceedings (§10-3-3215);

6. Clarify and expand temporary protections regarding permit issuance on properties while designation proceedings are pending (§10-3-3217);

7. Clarify the operation of the hold period on permits to alter buildings older than 45 years (§10-3-3218);

8. Refine Certificate of Appropriateness procedures (§10-3-3219);

9. Revise Certificate of Economic Hardship findings and procedures (§10-3-3220);

10. Replace the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Ineligibility Process (§10-3-3221);

11. Insert a section to enable designated historic properties to apply for inclusion into the City's In Lieu Parking Program (§§10-3-3228; -3311);

12. Institute timeframes within which applications must be processed and acted upon;

13. Expand the applicability of the Historic Incentive Permit (§10-3-3251);

14. Establish a period in which to exercise demolition rights after demolition permit issuance on certain potentially historic properties (§9-1-104);

15. Make additional minor text changes in the Municipal Code.

Section 7. The Planning Commission finds that 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, and LU 2 - Community Character and Quality. 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 8. This Ordinance has been 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. The Planning Commission recommends that the City Council find this Ordinance to be exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations (Minor Alterations in Land Use Limitations). 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 9. The Planning Commission hereby recommends that the City Council adopt an Ordinance replacing Article 32 and amending Articles 2.5, 32.5, and 33 of Chapter 3 of Title 10, and Section 9-1-104 of Title 9 of the Beverly Hills Municipal Code substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

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Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: May 28, 2015.

Howard S. Fisher
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Ryan Gohlich
Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Ryan Gohlich
City Planner

Exhibit A – Draft Ordinance No. 15-_____, amending the Beverly Hills Municipal Code as it relates to Historic Preservation (to Title 10, Chapter 3: Articles 2.5, 32 and 32.5; and Title 9, Chapter 1)

EXHIBIT A

[DRAFT]

ORDINANCE NO. 15- _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS REPLACING ARTICLE 32 (HISTORIC PRESERVATION) AND AMENDING ARTICLE 32.5 (HISTORIC INCENTIVE PERMIT), ARTICLE 33 (IN LIEU PARKING), AND ARTICLE 2.5 (PUBLIC NOTICE REQUIREMENTS) OF CHAPTER 3 OF TITLE 10, AND SECTION 9-1-104 OF CHAPTER 1 OF TITLE 9 OF THE BEVERLY HILLS MUNICIPAL CODE

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

Section 1. On _____, 2015, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. ___, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to address the need for modifications and process improvements that have become apparent during the first years of implementing the Historic Preservation Ordinance. On _____, 2015, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. As recommended by the Planning Commission, the zone text amendments to Article 32 of Chapter 3 of Title 10 would amend and restate existing Article 32. The substantive changes being proposed to Beverly Hills Municipal Code Article 32 Chapter 3 Title 10 include the following:

1. Revise select definitions (BHMC §10-3-3202);
2. Revise the Intent and Purpose of the Ordinance (§10-3-3203);
3. Revise the Powers and Duties of the Commission (§10-3-3208);
4. Revise Landmark and Historic District Designation Criteria (§§10-3-3212; 3213);
5. Revise Landmark and Historic District Designation Proceedings (§10-3-3215);

6. Clarify and expand temporary protections regarding permit issuance on properties while designation proceedings are pending (§10-3-3217);
7. Clarify the operation of the hold period on permits to alter buildings older than 45 years (§10-3-3218);
8. Refine Certificate of Appropriateness procedures (§10-3-3219);
9. Revise Certificate of Economic Hardship findings and procedures (§10-3-3220);
10. Replace the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Ineligibility Process (§10-3-3221);
11. Insert a section to enable designated historic properties to apply for inclusion into the City's In Lieu Parking Program (§10-3-3228; 10-3-3311);
12. Institute timeframes within which applications must be processed and acted upon;
13. Expand the applicability of the Historic Incentive Permit (§10-3-3251);
14. Make additional minor text changes to the Municipal Code.

Section 3. 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", "LU 2 Community Character and Quality"; 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 4. 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 the environmental review requirements of CEQA pursuant to Section 15305 (Minor Alterations in Land Use Limitations) of Title 14 of the California Code of Regulations. 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 5. The City Council hereby amends Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read 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
10-3-3206: Minimum Maintenance Requirements
10-3-3207: Cultural Heritage Commission
10-3-3208: Powers And Duties Of The Commission
10-3-3209: Preservation Incentives
10-3-3210: Establishment Of The Local Inventory Of Eligible Properties
10-3-3211: Establishment Of The City of Beverly Hills Register Of Historic Properties
10-3-3212: Landmark Designation Criteria
10-3-3213: Historic District Designation Criteria
10-3-3214: Street Improvements In Historic Districts
10-3-3215: Landmark Or Historic District Designation Proceedings
10-3-3216: Amendment Or Rescission Of Landmark Or Historic District Designation
10-3-3217: Demolition, Alteration, Or Relocation Of Property While Designation Proceedings Are Pending; Temporary Protections
10-3-3218: Hold Period For Permits To Alter Certain Buildings, Structures, And Objects Forty Five Years Of Age And Older
10-3-3219: Certificate Of Appropriateness
10-3-3220: Certificate Of Economic Hardship
10-3-3221: Certificate Of Ineligibility
10-3-3222: Appeals; Finality Of Decisions Regarding Certificates Of Appropriateness, Certificates Of Economic Hardship, And Certificates Of Ineligibility
10-3-3223: Historic Property Disclosure
10-3-3224: Limited Applicability To Renovations Of Properties Required To Comply With Secretary Of Interior Standards
10-3-3225: Enforcement And Penalties

10-3-3226: Preexisting Entitlements And Building Permits
10-3-3227: Fees
10-3-3228: Waiver Of In-Lieu Fees
10-3-3229: City Owned Properties; School District Properties
10-3-3230: Dangerous And Immediately Dangerous Properties
10-3-3251: Applicability: The Historic Incentive Permit Shall Be Available Only To:

10-3-3201: TITLE:

This article shall be known as the *HISTORIC PRESERVATION ORDINANCE OF THE CITY OF BEVERLY HILLS.*

10-3-3202: DEFINITIONS:

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADDITION: Any expansion or increase in floor area or height of a building or structure.

ALTERATION: Any physical modification or change to a building, structure, site, or object that may have an effect on character defining features of a property. Alterations shall also include construction of additions or entirely new buildings and/or structures, but shall not include ordinary maintenance and repair.

ARCHITECT: A person who is licensed as an architect in any competent jurisdiction, or who has received formal training as an architect from an accredited educational institution, or who has otherwise demonstrated professional skill in the design and planning of buildings. The term "architect" shall include any partnership, architectural firm, or other professional group comprised of such persons.

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 guesthouses, 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 California Code Of Regulations 15000 et seq., as amended from time to time.

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 a finding of economic hardship pursuant to this article.

CERTIFICATE OF INELIGIBILITY: A certificate establishing that a property is not an eligible property and therefore is exempt from the provisions of this article.

CHARACTER DEFINING FEATURE: A prominent or distinctive aspect, quality, detail, or characteristic of a property that contributes significantly to its physical character and historical significance. Such features may include, but are not limited to, building shape, massing, projections (*e.g.*, porches, balconies, and bay windows), openings (*e.g.*, doors, windows, and arches), distinguishing aspects, roof attributes, architectural details, materials, moldings, sculptures, fountains, light fixtures, landscaping, and monuments.

CITY OF BEVERLY HILLS REGISTER OF HISTORIC PROPERTIES: A register containing those properties and geographical areas formally designated by the city council as landmarks or historic districts pursuant to this article. The register shall also include contributing properties within historic districts. The most recent version of the register shall be published on the city's official website, and a copy of it shall be available for review in the city clerk's office.

COMMISSION: The cultural heritage commission as defined in section 10-3-3207 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 and satisfies all of the requirements for designation under this article.

DEMOLITION or DEMOLISH: Any act or process that destroys a property in part or in whole 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.

ECONOMIC HARDSHIP: The inability of a property owner to make a fair beneficial use of the property or derive a fair economic return from the property in its current form, as set forth in this article.

ELIGIBLE PROPERTY: A property for which there is *prima facie* evidence to support a finding that all of the applicable requirements for designation as a landmark under this article can be met.

EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: 1) it was the subject of a major architectural award; 2) it was substantively discussed (*i.e.*, not just mentioned) and photographically depicted in a monograph on a master architect's career; or 3) it was

substantively discussed or photographically depicted in at least two publications (*e.g.*, a book, treatise, or trade magazine article) written by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.

HISTORIC ASSESSMENT REPORT: A comprehensive report prepared by a qualified historic preservation consultant that assesses whether or not a specific property or geographical area, as the case may be, satisfies all of the requirements for designation as a landmark or historic district. The report shall include not only the requisite findings, but also all known facts and circumstances that either support or possibly refute those findings.

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 and is listed on the local register.

HISTORIC PROPERTY: A property that has been designated as a landmark or contributing property pursuant to this article and is listed on the local register.

ICONIC PROPERTY: A property that has been visited and photographed so often by residents and visitors to the city that it has become inextricably associated with Beverly Hills in the popular culture and forms part of the city's identity to the world at large.

INTEGRITY: The ability of a property to convey its historical significance through its location, design, setting, materials, workmanship, feeling, relevant association, and character defining features.

INVENTORY OF ELIGIBLE PROPERTIES: A list maintained by the city that contains all properties surveyed for historical or architectural significance and determined by the commission to be eligible properties. In creating and maintaining the inventory, surveys of individual properties or of several properties may be conducted, and any information obtained thereby shall be compiled in accordance with professional standards. The most recent version of the inventory shall be published on the city's official website, and a copy of it shall be available for review in the city clerk's office.

LANDMARK: Any property, including any building, structure, object, place, landscaping, or natural feature located on it that has been designated as a landmark pursuant to this article and is listed on the local register. In addition, any interior space or spaces of a landmark open to the general public, including, but not limited to, a lobby area, may be included in the property's landmark designation.

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. The most recent version of the list shall be published on the city's official website, and a copy of it shall be available for review in the city clerk's office.

LOCAL INVENTORY: The inventory of eligible properties.

LOCAL REGISTER OF HISTORIC PROPERTIES or LOCAL REGISTER: The City of Beverly Hills register of historic properties.

MAINTENANCE AND REPAIR: See definition of Ordinary Maintenance And Repair.

MAJOR ARCHITECTURAL AWARD: An award given annually by an authoritative body in the field of architecture, and voted on by a jury comprised mainly of distinguished architects, for excellence in the design of a building or for a lifetime of architectural achievement.

MASTER ARCHITECT: An architect of widely recognized greatness in the field of architecture whose individual genius influenced his or her age.
MILLS ACT: The California Government Code sections 50280 et seq., as 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 USC 470 et seq., 36 CFR sections 60, 63).

NATURAL FEATURE: Any naturally occurring tree, plant, plant community, or geographical or geological site or feature.

NOMINATED PROPERTY: A property that has been nominated by the commission for listing on the local register as a landmark or a contributing property.

NONCONTRIBUTING PROPERTY: A property within a designated historic district that is not a contributing property.

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 subsection 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 attained the character defining features that qualify it for designation as a landmark or a historic district.

PERSON OF GREAT IMPORTANCE: A person whose activities had a substantial impact on the history of the nation, which impact can be demonstrated through scholarly research and judgment. At a minimum, a person of great importance is someone whose name and exploits were widely known across America during his/her lifetime, and whose wide-spread fame continues through to the present day. A person shall not be considered to be of great importance by virtue of his/her position or title, race, gender, ethnicity, or religion.

PERSON OF GREAT LOCAL PROMINENCE: A person whose activities had such a substantial impact on the history of the City of Beverly Hills that a public street or public park in the city was named after him or her.

PRELIMINARY EVALUATION: An evaluation by the director as to whether or not a property that is not on the local inventory is an eligible property.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and/or materials of a property.

PROPERTY: The entirety of a site, including the buildings, structures, landscaping, objects, and other physical aspects of the location.

PROPERTY OF EXTRAORDINARY SIGNIFICANCE: A property having truly extraordinary significance in the field of architecture 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".

PROPERTY WITHIN A HISTORIC DISTRICT: Refers to both contributing properties and noncontributing properties in a historic district.

QUALIFIED HISTORIC PRESERVATION CONSULTANT: A consultant that meets the secretary of the interior's professional qualifications standards, as defined in 36 CFR 61, or its successor.

RECONSTRUCTION: The act or process of reproducing by new construction the exact form and detail of a building, structure, object, landscaping, or a part thereof, as it appeared at a specified period of time prior to alteration or demolition.

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 property from one site to another site, or to a different location on the same site.

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 CFR 68.3, as amended from time to time.

STABILIZATION: The act or process of applying measures designed to reestablish 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 thereunder, as amended from time to time.

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

SUBSTANTIAL INTEGRITY: Integrity that is considerable in importance, value, degree, amount, or extent, and that continues to exist, or would have continued to exist, but for work done without appropriate permits after the enactment of this article.

SURVEY: A systematic and standardized process for identifying and gathering data on the city's potential historic properties which can be used to determine whether any specific property is an eligible property that may be listed on the local inventory. A director's preliminary evaluation of a property may also qualify as a survey for the purposes of this article. Surveys may be conducted by or on behalf of the city, or by a qualified historic preservation consultant for a property owner; but in the latter case, the director shall have the discretion to approve or disapprove the adequacy of the survey results for the purposes of this article.

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

The intent and purpose of this article 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 or a direct connection to important historical events, contribute to an understanding and appreciation of the city's 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:

A. Protecting the character of the city, and promoting greater awareness and understanding of the city's history, through the preservation and maintenance of the city's historic properties;

B. Fostering civic pride and a sense of identity through the recognition of historical and architectural accomplishments of the city and its residents;

C. Educating the public about Beverly Hills' cultural, social, and architectural history;

D. Strengthening 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. Enhancing property values and making the city's historic properties eligible for financial benefits and incentives;

F. Acknowledging the critical role served by owners of the city's historic properties in furthering the goal of historic preservation pursuant to the city's general plan;

G. Encouraging preservation and adaptive reuse of historic properties by allowing changes to them to accommodate new functions, and not to "freeze" historic properties in time;

H. Identifying financial and other incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate, and improve historic properties.

10-3-3204: ADMINISTRATIVE GUIDELINES:

The director is authorized to develop and make publicly available guidelines for the nomination, designation, and preservation of historic properties, and such other supporting documents as the director deems necessary or desirable to implement this article.

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, and every person in possession or control, of a historic property shall, to the maximum extent practicable, maintain and keep the property and its character defining features in good repair, as defined in sections 5-7-3 and 5-7-4 of this code. In the event that a historic 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 sections 1-3-101 and 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 should have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two (2) 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, prehistoric 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 (5) members, at least one should be a registered architect, licensed contractor, or a California real estate licensee.

C. 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 historic preservation 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.

D. 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.

E. Scheduled Meetings. The commission shall meet at least four (4) 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. The commission chairperson shall have the authority to call and notice special meetings in a manner specified in the Ralph M. Brown act.

F. 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.

G. 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 this title, 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 entirety, including application of this article.

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

Unless otherwise specified herein, the duties of the historic preservation 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. Compile or cause to be compiled and maintained the local register listing and describing all designated historic properties within the city;

D. Compile or cause to be compiled and maintained the list of local master architects;

E. Review any survey, and compile or cause to be compiled and maintained the local inventory;

F. Conduct studies and evaluations of applications or proposals seeking the designation of historic properties, 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 historic property indicating that the property has been designated as such;

H. Review and act upon applications for certificates of appropriateness and economic hardship, and, in connection therewith, advise the city council on the significance of historic resources as defined by CEQA and recommend to the city council appropriate action in compliance with the city's adopted CEQA guidelines;

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. Review and make recommendations to the city council on Mills act contracts;

K. 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 properties in the city;

L. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historic properties, and provide public participation in all aspects of the city's historic preservation program;

M. Coordinate with other local, county, state, and federal governments in the pursuit of the city's historic preservation goals;

N. Upon request by the city council or the planning commission, review and make recommendations to the planning commission on zoning and general plan amendments related to preserving historic properties;

O. Develop a program to celebrate historic and eligible properties, and recognize outstanding maintenance, rehabilitation, and preservation of historic properties;

P. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year; and

Q. Perform any other functions that may be designated by resolution or motion of the city council.

10-3-3209: PRESERVATION INCENTIVES:

The city council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve historic properties.

10-3-3210: ESTABLISHMENT OF THE INVENTORY OF ELIGIBLE PROPERTIES:

The inventory of eligible properties is hereby created. The commission shall maintain the local inventory and determine which properties are eligible properties that may be listed on it, and shall periodically review, amend, and update the local inventory as appropriate. Properties listed on the local inventory may be nominated for inclusion on the city's local register of historic properties as set forth in this article.

10-3-3211: ESTABLISHMENT OF THE CITY OF BEVERLY HILLS REGISTER OF HISTORIC PROPERTIES:

The City of Beverly Hills register of historic properties is hereby created. Properties listed on the local register may be identified on site with an exterior marker or plaque displaying pertinent information about the property. 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:

An eligible property may be nominated and designated as a landmark if it satisfies the requirements set forth below.

A. A landmark must satisfy all of the following requirements:

1. It is at least forty five (45) years of age, or is a property of extraordinary significance;

2. It possesses high artistic or aesthetic value, and embodies the distinctive characteristics of an architectural style or architectural type or architectural period;

3. It retains substantial integrity from its period of significance; and

4. It has continued historic value to the community such that its designation as a landmark is reasonable and necessary to promote and further the purposes of this article.

B. In addition to the requirements set forth in Paragraph A above, a landmark must satisfy at least one of the following requirements:

1. It is listed on the National Register of Historic Places;

2. It is an exceptional work by a master architect;

3. It is an exceptional work that was owned and occupied by a person of great importance, and was directly connected to a momentous event in the person's endeavors or the history of the nation. For purposes of this

paragraph, personal events such as birth, death, marriage, social interaction, and the like shall not be deemed to be momentous;

4. It is an exceptional property that was owned and occupied by a person of great local prominence;

5. It is an iconic property; or

6. The landmark designation procedure is initiated, or expressly agreed to, by the owner(s) of the property.

10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:

A geographic area may be nominated and designated as a historic district if the district satisfies all of the following requirements:

A. The district is comprised of contributing properties that are contiguous or grouped in close proximity, and that are located in a definable area and are unified by theme, plan, or physical development;

B. The district reflects significant development patterns, including those associated with different eras of urban growth, particular transportation modes, or distinctive examples of community planning;

C. No part of the district, and no property in the district, is located in an area of the city zoned for one-family development, including but not limited to any area zoned R-1:

D. At least seventy percent (70%) of the properties in the district are contributing properties;

E. All of the contributing properties predominantly embody the distinctive elements of a single architectural style or architectural type or architectural period;

F. Each contributing property retains substantial integrity from the district's period of significance; and

G. The district as a whole has continued historic value to the community such that its designation as a district is reasonable and necessary to promote and further the goals of this article.

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

Whenever streetscape improvements are proposed by the city in historic 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 PROCEEDINGS:

A property or geographical area may be designated as a landmark or historic district, respectively, and added to the city's local register, after proceedings are initiated by a property owner or the city, the property or geographical area is nominated for designation by the commission, and the property or geographical area is designated as a landmark or historic district by the city council pursuant to the proceedings set forth in this section.

A. Initiation of Proceedings. Proceedings for designation of a landmark or historic district may be initiated by the property owner (in the case of a proposed landmark) or the owners of contributing properties (in the case of a historic district), by the commission, or by the city council.

1. Initiation By Property Owner(s): A property owner (in the case of a proposed landmark) or the owners of properties (in the case of a proposed historic district) may initiate designation proceedings by filing a written application with the department of community development. The application shall be completed on a form provided by the department, and shall include all required information and payment of applicable fees. When the application is by owners of properties for designation of a historic district, the application shall include a petition in support of the application signed by more than fifty percent (50%) of the property owners of legal lots within the proposed district, and shall also include a current list of names and legal mailing addresses of all property owners in the proposed district.

   Within thirty (30) days after the filing, the director shall review the application materials and determine whether the application is complete or whether additional information is required. If the application is determined to be incomplete, the director shall promptly inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall again review the application materials and determine if the application is complete. The processing timelines and procedures set forth in this section shall commence on the next business day after the application is deemed complete.

   a. In the case of a proposed landmark, if the property is not listed on the local inventory, then the application shall include sufficient information to establish that the property is an eligible property. In the case of a proposed historic district, if less than seventy percent (70%) of the properties in the geographical area are listed on the local inventory, then the application shall contain sufficient information to establish that all of the requirements for a historic district can be met.

   b. Although historic districts are not permitted in any area of the city zoned for one-family development, the director shall make available a form of application whereby owners of multiple properties in such an

area may jointly apply to have their properties considered for designation as individual landmarks.

2. Initiation By Commission Or City Council: The commission or the city council, as the case may be, may initiate designation proceedings concerning a proposed landmark by requesting that the matter be placed on its agenda at a noticed hearing.

    a. The commission may initiate designation proceedings only with the agreement of the subject property's owner(s), or when the subject property either: 1) is listed on the local inventory; 2) was designed by a person identified on the local list of master architects; 3) was owned and occupied by a person of great importance; or 4) was owned and occupied by a person of great local prominence.

3. Preliminary Evaluation: Within fourteen (14) days after an application for designation is deemed complete, or after the commission or the city council, as the case may be, initiates designation proceedings, the director shall prepare a written preliminary evaluation opining whether or not sufficient evidence exists to support a finding that all of the applicable requirements for designation as a landmark or historic district, as the case may be, can be met, and setting forth all of the facts known to the director in support of said opinion. The director shall promptly forward copies of the preliminary evaluation to the city council, the commission, and the affected property owner(s).

4. Notice of Preliminary Hearing: Upon completion of the preliminary evaluation, the director shall schedule a preliminary hearing before the commission (in the case of designation proceedings initiated by a property owner or the commission) or before the city council (in the case of designation proceedings initiated by the city council) at the reviewing body's next regularly held meeting to determine whether the proposed landmark or proposed historic district, as the case may be, merits formal consideration for nomination by the commission; provided, however, that if the next regularly scheduled meeting is set to occur less than ten (10) days or more than thirty (30) days after completion of the preliminary evaluation, the director shall schedule the preliminary hearing to occur within thirty (30) days after completion of the preliminary evaluation at another meeting of the reviewing body. The director shall give written notice of the date, time, place, and purpose of the hearing to all affected property owners (*i.e.*, the owner(s) of a proposed landmark or the owners of all properties in a proposed historic district, as the case may be) and their designated agent(s) by first class, prepaid mail not less than ten (10) days prior to the hearing. Any affected property owner that has not yet received a copy of the preliminary evaluation report shall be given a copy with the notice of hearing.

5. Preliminary Hearing:

a. At a preliminary hearing initiated by application of a property owner, the commission shall determine whether sufficient evidence exists to conclude that the subject property or geographical area satisfies all applicable designation criteria, and, if so, whether the property or area merits formal consideration for nomination. If, based on the director's preliminary evaluation and any other evidence provided to the commission at or prior to the hearing, the commission determines that sufficient evidence exists and the property or area merits formal consideration, it shall schedule a public hearing before the commission within seventy five (75) days for the commission to consider nomination of a property, or within one hundred and twenty (120) days for the commission to consider nomination of an area. If the commission determines that sufficient evidence does not exist, or that the property or area does not merit formal consideration, that shall be a final action of the commission, which is appealable pursuant to title 1, chapter 4, article 1 of this code or reviewable by the city council pursuant to title 1, chapter 4, article 2 of this code. Any determination as to whether or not the subject property or geographical area merits formal consideration for nomination shall be in writing, shall be filed by the commission secretary with the director, and shall be provided to the owner(s) of all properties that are the subject of the application.At a preliminary hearing initiated by the commission or the city council, the reviewing body shall determine whether sufficient evidence exists to conclude that the subject property is an eligible property, and, if so, whether the property merits formal consideration for nomination. If, based on the director's preliminary evaluation and any other evidence provided to the commission or the city council at or prior to the hearing, the commission or the city council, as the case may be, determines that sufficient evidence exists and the property merits formal consideration, it shall schedule a public hearing before the commission within seventy five (75) days for the commission to consider nomination. If the commission or the city council, as the case may be, determines that sufficient evidence does not exist, or that the property or area does not merit formal consideration, that shall be a final action of the reviewing body; if such action is by the commission, it is appealable pursuant to title 1, chapter 4, article 2 of this code or reviewable by the city council pursuant to title 1, chapter 4, article 2 of this code. Any determination as to whether or not the subject property merits formal consideration for nomination shall be in writing, shall be filed by the commission secretary or the city clerk with the director, and shall be provided to the property owner(s).

b.

B. Historic Assessment Report. Upon a determination that the subject property (in the case of a proposed landmark) or geographical area (in the case of a proposed historic district) satisfies the applicable designation criteria and merits formal consideration for nomination by the commission, the director shall cause to be

prepared a written historic assessment report concerning the property or geographical area to be used at all future designation proceedings. The report shall be completed no more than forty five (45) days after a determination that formal nomination consideration is merited for an individual property, and no more than ninety (90) days after a determination that formal nomination consideration is merited for a geographical area, and copies of the report shall be immediately provided to the owner(s) of the proposed landmark or of all properties in the proposed historic district, as the case may be, by first class, prepaid mail. Copies of the report shall also be promptly provided to the designated agents of the property owner(s) by first class, prepaid mail, and to the city council and the commission, which in any event shall occur not less than fifteen (15) days prior to the hearing at which the commission shall formally consider nomination. Failure to provide copies of the assessment report to the property owner(s) within the time periods set forth in this subsection shall, upon the request of a property owner, require a continuance of the nomination hearing for a period of time not to exceed the number of days of the delay; provided, however, that if copies of the report are not provided to the property owners(s) within sixty (60) days after the commission's determination to formally consider nomination of a proposed landmark, or within one hundred and five (105) days after the commission's determination to formally consider nomination of a proposed historic district, then such a failure will be deemed to be a final decision by the commission not to nominate the subject property or district.

1. If the subject property (in the case of a proposed landmark) or a property located in the geographical area (in the case of a proposed historic district) is not readily visible from the public right of way, the owner(s) of the property shall grant the city's qualified historic preservation consultant access to the exterior of the buildings and structures on the property for purposes of preparing the historic assessment report. Such access shall be granted within fifteen (15) days after the commission or the city council determines that the proposed landmark or historic district merits formal consideration for nomination; if access is not granted during that fifteen (15) day period, then the time periods set forth in this subsection shall be extended for as long as access is denied after the expiration of the fifteen (15) day period.

C. Notice of Nomination Hearing. Written notice of the date, time, place, and purpose of a public hearing for the commission to formally consider nominating a property or geographical area for designation as a landmark or historic district, as the case may be, shall be given by first class, prepaid mail not less than fifteen (15) days prior to said hearing to the applicant, if any, and to all owner(s) of the affected properties and their respective designated agent(s). The commission may also direct that other notice be provided as it deems appropriate.

D. Nomination Hearing. At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty five (45) days after the date first set for the

hearing, the commission shall nominate, in whole or in part, or decline to nominate the subject property or geographical area for designation as a landmark or historic district, as the case may be. 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 matter within the allotted forty five (45) days, such inaction shall be deemed a decision not to nominate, and it shall be the duty of the director to certify that as the decision of the commission. 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 all properties in the proposed district.

E. Findings By The Commission. The commission shall base its decision on the city's historic assessment report, such other evidence as is introduced at or prior to the nomination hearing, and the requirements for designation set forth in this article. If nominating a property for designation as a landmark, the commission shall specify the significant elements or character defining features of the property. If nominating a historic district, the commission shall identify all contributing properties in the proposed district along with the buildings, structures, objects, and character defining features located on each, and shall also identify the district's boundary and unifying theme, plan, or physical development, and the contributing properties' common architectural style or architectural type or architectural period. Properties, buildings, structures, and objects that happen to be located within a proposed district but are not identified as contributing properties shall be deemed noncontributing properties.

F. Only an owner of property subject to the designation proceedings shall have the authority to appeal a decision by the commission pursuant to the provisions of title 1, chapter 4, article 1 of this code. The city council shall have the authority to call up such decisions for review pursuant to the provisions of title 1, chapter 4, article 2 of this code. If the commission's decision not to nominate is not appealed to the city council or called up for review within the applicable statutory time period, then the decision shall be deemed a final decision not to designate.

G. Hearing And Decision By The City Council. The city council shall consider the matter as soon as practicable after receiving the commission's nomination of a property or area for designation, or after receiving a timely appeal of a commission's decision not to nominate, or after timely voting to call up such a decision. The city council by written resolution may approve, reject, or give modified approval to the commission's action, but any resolution to approve a nomination or reverse a decision not to nominate must be supported by four (4) members of the council if any owner of the proposed landmark, or of a property in the proposed historic district, opposes designation; provided, however, that if conflicts of interest result in a quorum comprised of only three (3) members of the council, then such a resolution may be supported by three (3) members of the council. If the city council approves a nomination, or rejects a commission decision not to nominate, then the subject property(ies) shall be designated as a

landmark or historic district, as the case may be, and the city clerk shall notify the owner(s) of the landmark, or the owners of the properties in the historic district, of the city council's action. If the city council fails to take final action on the matter within ninety (90) days after first acquiring jurisdiction over the matter pursuant to this section, or within such additional time as the city and the property owner(s) may mutually agree to, such inaction shall be deemed a final decision not to designate.

H. Historic Property Resolution. The resolution designating a landmark or historic district shall include:

1. The location of the landmark or the boundaries of the historic district, as the case may be;

2. For a historic district, a description of the district's boundary and unifying theme, plan, or physical development, and a list of the contributing properties and their common architectural style or architectural type or architectural period;

3. A description of the period of significance of the landmark or historic district;

4. A description of the particular attributes that justify the designation and a list of the character defining features that should be preserved;

5. The reasons for designation; and

6. A set of general guidelines to establish standards for future proposed changes.

I. 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, and the owner(s) and occupant(s) of the subject 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, relocation, rehabilitation, stabilization, or reconstruction of the property is restricted; and

4. A reference to this section authorizing the recordation.

J. 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. The owner(s) of said property(ies) shall maintain and preserve the property(ies) as required by section 10-3-3206 of this article.

K. Effect Of Non-Designation. When designation proceedings initiated by application of a property owner result in a non-designation (*i.e.*, a decision by the commission not to formally consider a nomination or not to nominate, or a decision by the council not to designate) of a proposed landmark or historic district, then no application concerning the same property (in the case of a proposed landmark) or substantially the same geographical area (in the case of a proposed historic district) shall be considered by the city for a period of five (5) years from the effective date of the final action on the prior application. When designation proceedings initiated by the commission or the city council result in a non-designation of a proposed landmark, then the city shall issue a certificate of ineligibility regarding the subject property as set forth in section 10-3-3221.C. of this article.

L. Withdrawal of Application. An application for designation of a landmark or historic district may be withdrawn at any time prior to designation by the city council. A withdrawal shall be made in writing by the original applicant(s) in the case of a proposed landmark, or by the owners of a majority of the subject properties in the case of a proposed historic district. A withdrawn application shall be deemed void *ab initio* for purposes of the application of this article, except that any fees paid to the city prior to the withdrawal shall not be repaid or reimbursed.

M. Effect of Denial Of Request To Rescind Historic Designation: When an owner of a property designated as a landmark or contributing property files an application to have that designation rescinded under section 10-3-3216 of this chapter, and when such request is denied by the city, no new application to delete the same property(ies) from the local register may be filed or submitted for a period of two (2) years from the effective date of the denial.

N. Extension of Time Periods. Any period of time to act specified in this section may be extended by the city council, the commission, or the director upon request of the owner of the proposed landmark or, in the case of a proposed historic district, of a majority of the property owners that signed the petition filed with the application for designation. Such a request shall be made in writing or on the record at a noticed hearing. In the absence of such a request, if the city is unable to act within a period of time specified in this section, the city shall automatically receive a fourteen (14) day extension of time in which to act; provided, however, that the city may only receive one such automatic extension during the course of the proceedings specified in this section, and if the automatic extension results in a shorter notice period or period in which an owner of a subject property may act or prepare to act, then the owner shall be granted an identical extension of time upon request.

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:

A. Evidence used to establish the designation was erroneous, newly discovered evidence establishes that the designation was erroneous, the historic assessment report used to make the designation omitted material evidence, or material procedural errors were made during the designation proceedings; or

B. The landmark or historic district no longer meets the criteria for designation under section 10-3-3212 or 10-3-3213 of this chapter, 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 general financial considerations shall not be 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 of the subject property. The city council shall consider an application for repeal of a previously designated landmark or historic district utilizing the same proceedings for designation set forth in section 10-3-3215 of this article. If a landmark or historic district designation is repealed, the city's register of historic properties shall be updated accordingly.

10-3-3217: DEMOLITION, ALTERATION, OR RELOCATION OF PROPERTY WHILE DESIGNATION PROCEEDINGS ARE PENDING; TEMPORARY PROTECTIONS:

Upon the initiation of designation proceedings, any alteration, restoration, reconstruction, relocation, rehabilitation, stabilization, or demolition, in whole or in part, of a proposed landmark or a property located in a proposed historic 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, reconstruction, relocation, rehabilitation, stabilization, or demolition shall be granted while a property or historic district is being considered for nomination by the commission or designation by the city council, 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 all designation proceedings and the expiration of all periods for appeal or city council review thereof.

Notwithstanding the foregoing, the director may waive the hold on building permits if the director determines that proposed work would not alter any of the character defining features of a subject property, or that the work would comply with the secretary of the interior's standards.

The director may also issue permits to mitigate or eliminate an imminent threat to the public health, safety, and welfare.

If, in a final decision, the commission decides not to nominate a property or geographical area for designation as a landmark or historic district, as the case may be, or the city council decides not to designate a nominated property or geographical area as a landmark or historic district, as the case may be, then, after all periods for appeal or city council review have expired, the temporary prohibition on the issuance of a permit to alter, restore, reconstruct, relocate, rehabilitate, stabilize, or demolish the proposed landmark, or the properties within the proposed historic district, shall terminate, and, upon the issuance of such permits, alteration, restoration, reconstruction, relocation, rehabilitation, stabilization, or demolition may proceed.

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

Any work involving a change in design, material, or appearance proposed on a property that is listed on the local inventory, or that is at least forty five (45) years or older and was designed by a person identified on the city's list of master architects, or both, or that is otherwise determined to be an eligible property by the director within the ten (10) day notice period required under section 9-1-104 § 102.6.4 of the Municipal Code, shall be subject to a thirty (30) day holding period prior to the issuance of any permits. Permit applications may be processed, however no final action shall be taken until after the thirty (30) day period has ended, and the permit applicant shall pull the permit within thirty (30) days after the end of the thirty (30) day holding period. The director may waive the thirty (30) day holding period if the director determines that the subject property is not an eligible property, or that the proposed work would not alter any character defining features or would comply with the secretary of the interior's standards. Work proposed on historic properties and properties within historic districts may require a certificate of appropriateness pursuant to section 10-3-3219 of this article.

10-3-3219: CERTIFICATE OF APPROPRIATENESS

No person, owner, or other entity shall alter, restore, reconstruct, relocate, rehabilitate, stabilize, demolish, or change the exterior appearance of a designated landmark or contributing property without first having applied for and been granted a certificate of appropriateness or certificate of economic hardship, unless the work proposed qualifies as ordinary maintenance and repair as defined in this article. Furthermore, a certificate of appropriateness or certificate of economic hardship may be required for alterations, demolition, new construction, and exterior changes in appearance of noncontributing properties in a designated historic district, as provided below.

A. Applications: An owner of a historic property or a noncontributing property in a historic district may request a certificate of appropriateness by filing a written application with the department of community development. The application shall be completed on a form provided by the department, and shall include all required information and payment of applicable fees.

B. Ordinary Maintenance and Repair: 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 all of the following conditions:

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

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 Noncontributing Properties in a Historic District. Any construction work proposed on a noncontributing property shall be reviewed to assure that the scale, massing, materials, and design of the work is compatible with the district.

Unless otherwise set forth in this article, a certificate of appropriateness shall be required prior to issuance of a permit for the following activities involving noncontributing properties:

1. New construction, including new buildings, structures, and objects, and new ancillary features such as fences, gates and walls; and

2. Remodeling and additions visible from the public right of way.

An application for a certificate of appropriateness for work proposed on a noncontributing 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 for work that meets the following conditions:

1. Requires a permit, and

2. Does not involve a change of design, material, appearance, or visibility of the character defining features 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. All proposed work on a noncontributing property shall comply with the standards set forth in subsection C of this section.

   If the director determines that the proposed work would not result in a

significant change of design, material, appearance, or visibility of character defining features, and a) with respect to landmarks and contributing properties, would comply with the secretary of the interior's standards; or b) with respect to noncontributing properties, would comply with the standards set forth in subsection C of this section, then the director shall issue the certificate of appropriateness.

If the director determines that the proposed work might result in a significant change of design, material, appearance or visibility of character defining features, or a) with respect to landmarks or contributing properties, might not comply with the secretary of the interior's standards; or b) with respect to noncontributing properties, might not comply with the standards in subsection C of this section, then the director shall refer the application for a certificate of appropriateness to the commission for review.

If the director determines that the proposed work would result in a significant change of design, material, appearance or visibility of character defining features, or a) with respect to landmarks or contributing properties, would not comply with the secretary of the interior's standards; or b) with respect to noncontributing properties, would not comply with the standards set forth in subsection C of this section, then the director may deny the application for a certificate of appropriateness or refer the application to the commission for review.

3. An application for a certificate of appropriateness shall be acted upon by the director within twenty one (21) days of receipt of a complete application.

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

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

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

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

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

e. Addition of new fences and walls;

f. Addition or replacement of awnings and building-mounted signs;

g. Landscape alterations, or removal or installation of tree and plant material not specifically designated or listed as character defining features of the property or district;

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

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

j. Installation of new exterior lighting;

k. Removal of additions to restore the original appearance of a building, structure, or object;

l. Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances not visible from the public rights of way which result in no change in appearance to the property;

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

n. 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 in the case of landmarks or contributing properties, or subsection C of this article in the case of noncontributing properties.

When a certificate of appropriateness is requested for demolition or relocation of a landmark or contributing property, additional supporting materials and justification may be required as specified in the city's administrative guidelines.

Upon receipt of a complete application, the commission shall issue or decline to issue the certificate of appropriateness within sixty (60) days. The time limits in this section shall be extended by the director when necessary to comply with the provisions of CEQA, with the written consent of the owner, or to allow city staff an additional period of time not exceeding thirty (30) days in which to analyze

information submitted to the city at or near the end of the 60-day period in which to act on the application. 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 written notice sent via certified mail, return receipt requested, to the owner or owner's designated representative at least fifteen (15) days prior to the date of the hearing.

The applicant for a certificate of appropriateness may submit such evidence to the commission as it deems appropriate at or prior to the hearing. At the hearing, the commission shall consider this and any other relevant information, as well as the reasonable economic, environmental, and technical feasibility of the proposed 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; or

2. Does not demonstrate strict compliance with the secretary of the interior's standards, but nonetheless protects and preserves the historic and architectural qualities and the character defining features of a landmark or contributing property; or

3. Satisfies the requirements of subsection C of this section with respect to a noncontributing property; or

4. Meets the criteria established for alteration, restoration, reconstruction, relocation, rehabilitation, stabilization, or demolition of a landmark or contributing property in the city's administrative guidelines.

F. Extension of Time Periods: Any period of time to act specified in subsection D or E above may be extended by the commission or the director upon request of the owner of the subject property. Such a request shall be made in writing or on the record at a noticed hearing.

G. Term: A certificate of appropriateness shall lapse and become void twenty four (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 subsection, 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.

H. Extensions of Certificates: 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.

I. 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 originally reviewed application unless otherwise determined by the director. Payment of applicable fees is required upon submitting an application for modification.

10-3-3220: CERTIFICATE OF ECONOMIC HARDSHIP:

The commission may issue a certificate of economic hardship to allow demolition, alteration, or relocation of a designated landmark or contributing property when it finds that denial of an enabling certificate of appropriateness would cause undue economic hardship for the property's owner(s). Any landmark or contributing property that is otherwise subject to a specific plan shall not be eligible for a certificate of economic hardship under this section.

A. Applications: An owner of a historic property may request a certificate of economic hardship by filing a written application with the department of community development. The application shall be completed on a form provided by the department, and shall include all required information and payment of applicable fees to process the application and fund a peer review, by one or more appropriate consultants selected by the city, of the information submitted by the applicant. The application shall also include the following information:

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 demolition, alteration, or relocation.

3. The Estimated costs of the proposed demolition, alteration, or relocation.

4. A 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.

5. If the property owner contends that there is a dangerous or unsafe condition on the property, a report from an expert consultant identifying the condition, its cause, and all feasible rehabilitation, restoration, stabilization, and/or reconstruction measures that may be required to abate the condition.

6. The estimated costs of all feasible rehabilitation, restoration, stabilization, and/or reconstruction measures that may be required to eliminate existing structural deficiencies or unsafe conditions on the property.

7. The estimated market value of the property if the owner undertook all feasible rehabilitation, restoration, stabilization, and/or reconstruction measures that may be required to eliminate all existing structural deficiencies or unsafe conditions on the property.

8. For income producing properties located outside of areas of the city zoned for one-family development, information regarding annual gross income, operating and maintenance expenses, tax deductions for depreciation, annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.

9. An estimate of the potential economic benefits to the property owner of all development incentives and benefits readily available to the owner under this article.

10. Any other information the director may reasonably require in order to determine the present market value of the property, including but not limited to:

    a. 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;

    b. 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; and

    c. Any listing of the property for sale or rent, and prices asked, and offers received, if any within the previous two (2) years.

A. Public Hearing: Once the director determines that an application for a certificate of economic hardship and any applicable peer review(s) thereof are complete, the director shall schedule a public hearing before the commission concerning the application to occur within sixty (60) days, at which the commission may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a certificate of appropriateness. The time, place, and purpose of the public hearing shall be given by written notice sent via certified mail, return receipt requested, to the owner or owner's designated representative at least fifteen (15) days prior to the date of the hearing.

B. Findings: The commission shall not approve an application for a certificate of economic hardship unless it makes all of the following findings:

1. The current market value of the subject property is unconscionably less than the projected net value of the property after demolition, alteration, or relocation, based on the estimated market value of the property after demolition, alteration, or relocation and the estimated costs of demolition, alteration, or relocation; and

2. The projected net value of the subject property if all required rehabilitation, restoration, stabilization, and/or reconstruction measures are undertaken, based on the estimated market value of the property after rehabilitation, restoration, stabilization, and/or reconstruction, the estimated costs of rehabilitation, restoration, stabilization, and/or reconstruction, and the estimated economic benefits of all development incentives and benefits readily available under this article, is unconscionably less than the projected net value of the property after demolition, alteration, or relocation, based on the estimated market value of the property after demolition, alteration, or relocation and the estimated costs of demolition, alteration, or relocation.

C. Conditions of Approval: If the commission approves an application for a certificate of economic hardship, it may condition its approval as it deems appropriate. Such conditions of approval may specifically include, but are not limited to, revocation of any previously granted historic incentive permit concerning the subject property.

D. Copies Of Certificate: 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.

E. Effectiveness Of Certificate: No certificate of economic hardship shall become effective until the time to appeal its approval has expired.

F. Extensions of Time Periods: Any period of time to act specified in this section may be extended by the commission or the director upon request of the owner of the subject historic property. Such a request shall be made in writing or on the record at a noticed hearing.

10-3-3221: CERTIFICATE OF INELIGIBILITY.

Any owner of a property not listed on the local register may at any time file an application with the city requesting a determination that the subject property is not an eligible property and therefore is exempt from the provisions of this article.

A. Applications: A request for a certificate of ineligibility shall be made by filing a written application with the department of community development. The application shall be completed on a form provided by the department, and shall include all required information and payment of applicable fees. Copies of the application shall be provided promptly to members of the commission by the director to enable commissioners to provide information to the director concerning the subject property where appropriate.

B. Administrative Procedure: Within thirty (30) days after the filing of the application, the director shall review the application materials and determine whether the application is complete or whether additional information is required. If the application is determined to be incomplete, the director shall promptly inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall again review the application materials and determine if the application is complete. The processing timelines and procedures set forth in this section shall commence on the next business day after the application is deemed complete.

Within thirty (30) days after the application is deemed complete, the director shall prepare and serve on the property owner by first-class, prepaid mail a written preliminary evaluation stating whether or not the director finds that the subject property is an eligible property. If the director does not find that the property is an eligible property, the director shall issue the requested certificate of ineligibility; but if the director believes that the property is an eligible property, the director shall not issue the certificate. If the director fails to prepare and serve a preliminary evaluation regarding the subject property within the allotted thirty (30) days, such failure will be deemed a finding of ineligibility, and the director shall issue the requested certificate of ineligibility without further delay.

C. Hearing After Preliminary Evaluation. If the director declines to issue a requested certificate of ineligibility, the commission shall consider the matter de novo at its next regularly held meeting; provided, however, that if the next regularly scheduled meeting is set to occur less than ten (10) days or more than thirty (30) days after completion of the preliminary evaluation, the director shall schedule another meeting to occur within thirty (30) days after completion of the application at which the commission shall hear the matter. The director shall give written notice of the date, time, place, and purpose of the hearing to the applicant/appellant and any designated agent(s) by first class, prepaid mail not less than ten (10) days prior to the hearing. If, based on the director's preliminary evaluation and any other evidence provided to the commission at or prior to the hearing, the commission determines that the subject property is not an eligible property, it shall issue the requested certificate; but if the commission finds that the subject property is an eligible property, it shall not issue a certificate.

D. Effect of Certificate of Ineligibility: A certificate of ineligibility bars the commission or the city council from initiating landmark designation proceedings concerning the subject property, in whole or in part, for a period of seven (7)

years from the date of issuance. While a certificate of ineligibility is in effect, the subject property shall not be listed on the local inventory, and shall not be subject to the provisions of section 10-3-3217 and section 10-3-3218 of this article.

E. Effect of Non-Issuance of Certificate: A final determination not to issue a certificate of ineligibility bars the owner of the subject property, and any successor in interest, from filing another application for a certificate of ineligibility concerning the same property for a period of five (5) years. Any such final determination may also serve as a basis for the commission to list the subject property on the local inventory if it is not already so listed.

F. Extensions of Time Periods: Any period of time to act specified in this section may be extended by the commission or the director upon request of the owner of the subject property. Such a request shall be made in writing or on the record at a noticed hearing.

10-3-3222: APPEALS; FINALITY OF DECISIONS REGARDING CERTIFICATES OF APPROPRIATENESS, CERTIFICATES OF ECONOMIC HARDSHIP, AND CERTIFICATES OF INELIGIBILITY:

A. Authority To Appeal Decisions: Only the applicant for a certificate of appropriateness, certificate of economic hardship, or certificate of ineligibility, or an owner of another property within a historic district in which the property that is the subject of the application is located, shall be entitled to file an appeal of a decision regarding the certificate pursuant to title 1, chapter 4, article 1 of this code. The city council shall have the authority to call up such decisions for review pursuant to the provisions of title 1, chapter 4, article 2 of this code.

B. Finality Of Director Or Commission Decision: Any decision of the director or the commission regarding a certificate of appropriateness, certificate of economic hardship, or certificate of ineligibility under this article shall become final if no appeal is submitted within the applicable appeal period and the decision is not called up for review by the city council pursuant to the provisions of title 1, chapter 4, article 2 of this code.

C. Appeal Of Director Actions: A decision by the director pursuant to section 10-3-3219 of 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 title 1, article 4, chapter 2 of this code.

D. Appeal Of Commission Actions: A decision by the commission pursuant to section 10-3-3219, section 103-3220, or section 10-3-3221 of this article may be appealed to the city council within fifteen (15) days from the date of the decision pursuant to the procedures set forth in title 1, chapter 4, article 1 of this code. A decision by the commission pursuant to any section of this article may be called up for city council review pursuant to the provisions of title 1, chapter 4, article 2

of this code. The city council shall act within sixty (60) days after an appeal is filed or the matter is called up for review, as the case may be, 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 appeal and approval of the commission's decision.

10-3-3223: HISTORIC PROPERTY DISCLOSURE

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

BUYER: A transferee in a real property transaction, including 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.

LISTING AGENT: An agent who has obtained a listing of real property of the kind for which he or she is authorized by law to act as an agent for compensation.

OFFER TO PURCHASE: 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.

OWNER: Any person, copartnership, association, corporation, or fiduciary having legal or equitable title, or any other interest, in real property.

REAL PROPERTY TRANSACTION: 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; includes a listing or an offer to purchase.

SALE: 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.

SELLING AGENT: A listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or 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 a property has been designated by the city of Beverly Hills as a landmark, is a property within a designated historic district, is listed on the local inventory, or was designed by a person identified on the list of master architects, 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 or potentially historic status. If a preliminary title report indicates that the property

was once owned and occupied by a person of great importance or a person of great local prominence, the owner or selling agent shall provide the buyer with notice informing the buyer of that fact as well. The owner or the selling agent shall provide the notice(s) to the buyer before expiration of any inspection contingency period, or in the absence of such contingency, at least ten (10) calendar days before the first scheduled date for the transfer of title to occur. The director shall prepare a written form for owners and selling agents to use as a means of facilitating the disclosures required pursuant to this section.

C. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in title 1, chapter 3 of this code. In addition, a buyer who does not receive the notice required by subsection B of this section may bring a civil action for damages and any other remedies available at law or in equity.

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.

E. The disclosure requirements of this section are in addition to any disclosure obligations a property owner or agent may have under California law.

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 designated landmark the renovation of which isrequired by legislation enacted by the city of Beverly Hills prior to the adoption of this article to comply with the secretary of interior's standards for rehabilitation pursuant to 36 CFR 68.3(b) and related guidelines for rehabilitating historic buildings shall be exempt from the provisions in sections 10-3-3216, 10-3-3217, 10-3-3218, 10-3-3219, 10-3-3220, 10-3-3221 and 10-3-3222 of this chapter; 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 any resolution adopted under subsection 10-3-3215H of this chapter, 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 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, relocation, or demolition of a landmark or contributing property 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, relocation, 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. The purpose of the moratorium is to provide the city an opportunity to study and determine appropriate mitigation measures for the alteration, relocation, or demolition of the historic property, and to ensure such measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined to be appropriate by the director, the commission, or the city council 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 part of a historic property demolished, partially demolished, altered, partially altered, relocated, or partly relocated in violation of this chapter.

E. Any person who demolishes, alters, relocates, rehabilitates, stabilizes, or reconstructs a designated landmark or property in a designated historic district without the approval and issuance of a certificate required to be 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:

1. A temporary or permanent injunction, or both;

2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

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 hereof, or started under a valid building permit issued prior to the effective date hereof, as such entitlements or permits may be extended pursuant to provisions of this 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 an application to initiate nomination proceedings, and all other applications and submissions made pursuant to this chapter.

10-3-3228: WAIVER OF IN-LIEU FEES

Pursuant to the requirements, limitations, and procedures set forth in this section, the city council or the planning commission may allow the owner of a designated historic property to purchase in-lieu parking to serve a site area in excess of sixteen thousand (16,000) square feet of space, and may waive, in whole or in part, the fees required by section 10-3-3310 of this article.

A. Required Uses: The city council or planning commission may only take action pursuant to this subsection if the historic property on the site area is the subject of an adaptive reuse.

B. Findings Required: The city council or planning commission shall not take action pursuant to this section unless the city council or planning commission finds that the proposed use will not unreasonably deplete parking resources in the in-lieu parking district.

C. Reviewing Body: The city council shall review an application filed pursuant to this subsection unless that application accompanies an application that otherwise requires review by the planning commission. If the application filed pursuant to this subsection accompanies an application that otherwise requires review by the planning commission, then the planning commission shall be the reviewing body for the application filed pursuant to this section.

D. Procedure: An application filed pursuant to this section shall be submitted in writing to the director. Upon receipt of such application, a hearing regarding the application shall be scheduled before the city council or the planning commission, as provided in subsection C of this section. Notice of the hearing shall be mailed to the applicant at least ten (10) days prior to such hearing.

10-3-3229: 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 of this chapter 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.

10-3-3230: DANGEROUS AND IMMEDIATELY DANGEROUS PROPERTIES:

Nothing in this article shall prevent the reconstruction, alteration, repair, restoration, stabilization, rehabilitation, or demolition of a property, regardless of designation or eligibility for designation, if the building official determines that the property creates an unsafe or dangerous condition that presents an imminent threat to the health or welfare of the owner, the public, or an adjacent property, and further that the proposed action is necessary to mitigate the unsafe or dangerous condition. In that event, the building official shall immediately notify the director in writing of the situation, and shall make reasonable efforts to consult with the director to determine if there are feasible alternatives to the proposed action that will adequately protect against the determined threat. Any action taken pursuant to this subsection shall not require a certificate of appropriateness, economic hardship, or ineligibility.

Section 6. The City Council hereby amends Section 3251 of Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

10-3-3251: APPLICABILITY: THE HISTORIC INCENTIVE PERMIT SHALL BE AVAILABLE ONLY TO:

A. Those properties that are designated as a local historic landmark in the City of Beverly Hills pursuant to the provisions set forth in Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code, or

B. Any property that the Cultural Heritage Commission or the City Council has determined, at a preliminary hearing held pursuant to section 10-3-3215.A.5. of this article, merits formal consideration by the Cultural Heritage Commission for nomination as a landmark; provided, however, that any Historic Incentive Permit issued by the Planning Commission pursuant to this subsection shall be expressly conditioned on the property's designation as a landmark by the City Council and inclusion on the City of Beverly Hills' local register of historic places.

Section 7. The City Council hereby amends subsection A of Section 253 of Article 2.5 of Chapter 3 or Title 10 of the Beverly Hills Municipal Code to read as follows, with all other subsections of Section 10-3-253 remaining without amendment:

A. Standard Requirements:

Public Notice Requirements for Development Applications		On-Site Posted Notice 10- Day	Newspaper Notice 10-Day	Mailed Notice 10-Day
Architectural Review				
Director level projects can be processed administratively and include: minor landscape approvals, some commercial signs, and minor exterior changes to multi-family and commercial buildings (paint color changes, replacing like for like elements). These permits are generally processed at the planning counter.	Director	None	None	None
Commission level projects must be reviewed by the City's Architectural Commission (AC) and include: sign accommodations, most commercial signs, façade remodels for commercial and multifamily buildings, new construction of commercial and multifamily buildings, and landscaping for commercial and multifamily projects.	Commission	Only projects in Multi-Family Residential Zones	None	None
Cultural Heritage				
Director level projects can be processed administratively and include Director level Certificate of Appropriateness and Certificate of Ineligibility. Commission level applications include projects that are reviewed by the City's Cultural Heritage Commission (CHC). The CHC recommends to the City Council on Landmark or Historic District Designation nominations and Mills Act Contracts. The CHC acts on Certificates of Appropriateness for Designated Landmarks and Contributing Properties, Certificates of Ineligibility, and Certificates of Economic Hardship.		Certificate of Appropriateness for Designated Landmarks and Contributing Properties: See Section 10-3-3219 Certificate of Ineligibility: See Section 10-3-3221 Landmark or Historic District Designation: See Section 10-3-3215 Certificate of Economic Hardship: See Section 10-3-3220		
Design Review				
Director level projects can be processed administratively and include single family home remodels and new homes in the Central area of the City that are determined to be "Track 1".	Director	None	None	Owner/Applicant
Commission level applications include projects that are reviewed by the City's Design Review Commission (DRC) including Single Family Home façade remodels and New homes in the Central area of the City that are determined to be "Track 2".	Commission	Yes	None	Central Area: 100 ft. radius + block-face
Planning Review				

Public Notice Requirements for Development Applications		On-Site Posted Notice 10- Day	Newspaper Notice 10-Day	Mailed Notice 10-Day
Director Level includes applications that can be reviewed and approved by staff. Commission/Council, however many of the applications may be referred to the Planning Commission Level applications are reviewed and approved by the Planning Commission or City Council. Applications include: • Amendment (General Plan, Streets Master Plan, Specific Plan, Zone Text, Zoning Code) • Conditional Use Permit • Common Interest Development* • Density Bonus Permit • Development Plan Review • Extended Hours Permit • Game Court Fence • Game Court Location • In-Lieu Parking • Large Family Daycare Permit* • Lot Line Adjustment • Maps: Tentative and Parcel • Minor Accommodation • Open Air Dining • Overnight Stay Permit • Planned Development Review • Reasonable Accommodation* • Resolution of Public Convenience and Necessity* • R1: Hillside, Central and Trousdale • R4 Permit • Second Unit Use Permit • Specific Plan • Tree Removal Permit* • Variance • View Restoration* Underlined Applications are reviewed at the Commission/Council level only *Special noticing requirements apply, See 10-3-253(B)	Director Level	Yes	No	Hillside & Trousdale: 300 ft. radius Central Area: 100 ft. radius + block-face
	Commission/Council Level	Yes	Amendments (General Plan, Streets Master Plan, Specific Plan, Zone Text, Zoning Code) Conditional Maps (Tentative, and Parcel) Specific Plan Use Permit Variance	Hillside & Trousdale: 500 ft. radius Central Area: 300 ft. radius + block-face

Section 8. The City Council hereby amends subsection B of Section 253 of article 2.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other subsections of Section 10-3-253 remaining without amendment:

Development Application	Public Notice Posting Requirements
The following applications have unique noticing requirements:	
Common Interest Development	With regard to all forms of common interest development conversions, the property owner shall be responsible to give each tenant and each prospective tenant all applicable notices as required by the Beverly Hills municipal code and state law. a) Notice Of Intent: A notice of intent to convert shall be delivered by the subdivider to each tenant at least sixty (60) days prior to submitting an application for the tentative map in accordance with California Government Code section 66427.1(a) or any successor statute. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. For the purposes of this article, the "legal requirements for service by mail" shall mean the requirements set forth in California Code of Civil Procedure sections 1012 and 1013a, or any successor statutes. The form of the notice shall be in the form outlined in Government Code section 66452.9 and shall inform the tenants of all rights provided under the Beverly Hills municipal code and state law. b) Notice Of Public Report: In accordance with the provisions of California Government Code section 66427.1(a) or any successor statute, the subdivider shall provide each tenant ten (10) days' advance written notice that an application for a public report will be or has been submitted to the state department of real estate, and that said report will be available for review in the department of community development once the report is released by the department of real estate. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. c) Notice Of Final Map Approval: In accordance with the provisions of California Government Code section 66427.1(b) or any successor statute, the subdivider shall provide each tenant written notification within ten (10) days of approval of a final map for the proposed conversion. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. d) Additional Notice To Terminate Tenancy: In accordance with the provisions of California Government Code section 66427.1(c) or any successor statute, the subdivider shall provide to each tenant written notice of the intent to convert at least one hundred eighty (180) days prior to the termination of tenancy due to the proposed conversion. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. e) Notice Of Public Hearing On Tentative Map: In addition to any other notice required by law, at least ten (10) days prior to the public hearing before the planning commission on the tentative map, the subdivider shall provide each tenant written notice of the public hearing. Said notice shall be in the form prescribed by the director of community development or his or her designee and shall contain, as a minimum, the following information: I An estimate as to the length of time before the conversion, if approved, would result in the tenant's eviction; II An explanation of the tenant's rights and benefits if the conversion is approved; and III The grounds upon which the planning commission can deny the request for conversion. f) Affidavit Required: In connection with an application for a tentative map to convert an existing multi-family residential apartment building or a common interest development previously created prior to January 1, 2006, to a common interest development, the subdivider shall submit an affidavit in a form prescribed by the director of community development attesting to compliance with the noticing requirements prescribed by subsection A of this section. Said affidavit shall be signed by the subdivider under penalty of perjury and shall include copies of the proof of service on each tenant in the building to be converted. (Ord. 06-O-2497, eff. 4-6-2006)

Development Application	Public Notice Posting Requirements
Large Family Daycare Permit	Not less than ten (10) days prior to the date on which the director shall review the application, notice of the application shall be mailed, by United States mail, postage prepaid, to all owners shown on the last equalized assessment roll as owning real property within one hundred feet (100') of the exterior boundaries of the subject site area.
Reasonable Accommodation	A At least ten (10) calendar days before issuing a written determination on the application, the director shall mail notice to the applicant and adjacent property owners that the city will be considering the application, advising of the standards for issuing an accommodation, and inviting written comments on the requested accommodation. Written notice of a hearing to consider the application shall be mailed ten (10) calendar days prior to the meeting to the applicant and adjacent property owners.
Resolution of Public Convenience or Necessity	Notice of a public hearing shall be mailed to property owners and occupants within three hundred feet (300') of the premises for which a determination is requested. At least ten days prior to the public hearing a written notice shall be published in the newspaper.
Tree Removal Permit	Notice of any hearing on such a permit before the planning commission shall be mailed to any adjacent property owners whose property rights may be substantially affected by the approval of the requested permit.
View Restoration	a) Public Hearing Notice Notice of any hearing held pursuant to this section shall be mailed at least thirty (30) days prior to such hearing by United States mail, postage paid, to the applicant and to all owners who are identified as foliage owners in the view restoration permit application, as shown on the latest equalized assessment roll, as well as residential occupants of the foliage owners' properties. b) Notice of Decision Notice Of Decision: Within five (5) days after the issuance of a decision by the reviewing authority, the director of community development shall cause a copy of the decision to be mailed through the United States mail, postage prepaid, to each of the following persons: I. The view owner, using the mailing address set forth in the application; II. Each foliage owner that is named on the application, as listed on a current tax assessor's roll and to the occupant of the foliage owner's property if the foliage owner's address is different than the property on which the foliage is located. The failure of the person addressed to receive a copy of the decision shall not affect the validity or effectiveness of any decision.

Section 9. The City Council hereby amends subsection A. 1. b. of Section 3311 of Article 33 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other subsections of Section 10-3-3311 remaining without amendment:

"b. Adaptive reuses of building listed on the City of Beverly Hills' Local Register of Historic Properties."

Section 10. The City Council hereby amends paragraph 5 of Section 102.6 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 portions of Municipal Code Section 9-1-104 and Uniform Administrative Code Section 102.6 remaining without amendment:

"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 director determines that the subject property is not an eligible property. The building or structure relocation activities authorized by a permit issued for a project subject to the thirty (30) day hold period required by this paragraph 5 shall be commenced with 180 days of permit issuance, and thereafter shall be diligently pursued to completion, otherwise the permit shall be null and void, and of no further effect whatsoever. Any subsequent application for a structure or building relocation permit for the same property shall be subject to a new thirty (30) day hold period pursuant to this paragraph."

Section 11. The City Council hereby amends Section 102.9 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 add a new subsection 4. to Section 102.9 of the Uniform Administrative Code to read as follows, with all other portions of Municipal Code Section 9-1-104 and Uniform Administrative Code Section 102.9 remaining without amendment:

"4. The demolition activities authorized by a demolition permit issued for a project subject to the thirty(30) day hold period required by subsection 2(ix) of this Section 102.9 shall be commenced with 180 days of permit issuance, and thereafter shall be diligently pursued to completion, otherwise the demolition permit shall be null and void, and of no

further effect whatsoever. Any subsequent application for a demolition permit for the same property shall be subject to a new thirty (30) day hold period pursuant to subsection 2(ix) of this Section 102.9."

Section 12. 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 13. Applicability / Master Architect List Transition Period.

(a) The Historic Preservation Ordinance in effect prior to the effective date of this Ordinance, and not this Ordinance, shall apply to:

(i) Applications for Nomination by a Property Owner or Property Owners that are deemed complete for processing and have a complete historic assessment report on file with the Community Development Department prior to the effective date of this Ordinance; and,

(ii) City Council or Cultural Heritage Commission initiated nominations initiated after November 1, 2013, and for which the required historic assessment report is completed prior to the effective date of this Ordinance.

(b) Master Architect List Transition Period: With the director's assistance, the commission shall compile the list of master architects as set forth in section 10-3-3208.D of this Article 32 of Chapter 3 0f Title 10 of the Municipal Code within one hundred and twenty (120) days of the enactment of this Ordinance. Until such time as the list of master architects is compiled, but in no event after the expiration of said one hundred and twenty (120) day period, the city shall use a list of master architects maintained previously by the commission for purposes of applying this section 10-3-3218 and section 10-3-3215.A.2.a. of Article 32 of Chapter 3 of Title 10 of the Municipal Code.

Section 14. 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 15. 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:
Effective:

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
MAHDI ALUZRI
Interim City Manager

_____
SUSAN HEALY KEENE AICP
Director of Community Development

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS.

CITY OF BEVERLY HILLS)

I, RYAN GOHLICH, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1748 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on May 28, 2015, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Shooshani, Corman, Vice Chair Block, Chair Fisher.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Gordon.

for

RYAN GOHLICH
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California