Beverly Hills
Planning Division
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Planning Commission Report

Meeting Date: December 11, 2014

Subject: Replacement of Beverly Hills Municipal Code Article 32 and Amendments to Article 32.5 Regarding Historic Preservation. Pursuant to the provisions set forth in the California Environmental Quality Act (CEQA), the Planning Commission may also consider a determination of exemption from CEQA.

Recommendation: 1) Review the proposed Draft Ordinance, and 2) adopt a Resolution recommending that the City Council adopt an Ordinance replacing Article 32 (Historic Preservation) and amending Article 32.5 (Historic Incentive Permit) of Chapter 3 of Title 10 of the Beverly Hills Municipal Code

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REPORT SUMMARY

Summarized in this report is the background on the Historic Preservation Ordinance process that began in November 2013. This report also transmits a Draft Ordinance that would replace Article 32 ("Historic Preservation Ordinance") and amend BHMC §3251 (Historic Incentive Permit applicability) of the Beverly Hills Municipal Code (BHMC). The Planning Commission is presented with a draft Resolution recommending that the City Council adopt this Ordinance. As a next step, the Ordinance would be scheduled for a public hearing before the City Council.

BACKGROUND

Review of the Historic Preservation Ordinance was initiated in 2013 in response to suggestions from the State Office of Historic Preservation about a variety of administrative and other non-substantive changes that would make the ordinance more consistent with state and federal procedures. There were also discussions between the City and the State Office of Historic Preservation about the City becoming a Certified Local Government (CLG), which would require changes to how the City's ordinance addresses historic districts. The CLG program is jointly administered by the State Office of Historic Preservation and the National Park Service in a partnership with local governments. CLG designation makes cities eligible to receive certain grants and technical assistance, among other benefits. These issues were discussed in a joint sub-committee of the Planning Commission and Cultural Heritage Commission and

Attachment(s):
1. Draft PC Resolution Recommending Ordinance (including Draft Ordinance as Exhibit A)
2. Redlined code sections – BHMC Article 32 and BHMC §3215
3. Summary of CHC Comments from 11-17-14 and 11-24-14
4. Preliminary Assessment of Master Architect List
5. Table 1 - Comparison of Landmark Designation Criteria

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the Planning Commission later adopted a resolution recommending changes to the ordinance (Resolution 1697, November 21, 2013). The resolution proposed additional restrictions on historic districts that would preclude the CLG designation. Accordingly, the State Office of Historic Preservation later reached out to the City staff to discuss the ordinance in hopes that Beverly Hills might still become a CLG. These discussions continued into the spring of 2014.

Concerns from members of the public, including comments made at a City Council meeting in the summer of 2014, led to a Liaison Committee meeting of the City Council, Planning Commission and Cultural Heritage Commission on September 16, 2014. Processing times for development projects, and the scope of rehabilitation work that is allowed during a 30-day hold period, were among the issues addressed in the Liaison Committee meeting. The Committee agreed that changes to the ordinance should be considered.

Planning Commission Review

October 9, 2014

Initial changes to the ordinance were reviewed by the Planning Commission at its October 9, 2014 meeting. These changes incorporated input from a variety of sources including: the City Council, Cultural Heritage Commission, the Joint Subcommittee of the Planning Commission and Cultural Heritage Commission, the State Office of Historic Preservation, the City Attorney's Office, the City's historic consultants and City staff. The Planning Commission discussed this input, as well as the scope and intent of the Ordinance and the impact of the Historic Preservation Program in general. These topics included:

- Increasing certainty of the City's historic property review process
- Reviewing the pros and cons of historic districts
- Protecting property rights and values
- Tightening Local Landmark criteria
- Revisiting the Ordinance to ensure its alignment with the original intent of the legislation

Commissioner Corman indicated that he was working on drafting additional changes to the Ordinance that he recommended the Commission consider. Accordingly, the Planning Commission continued the matter to the October 23, 2014, meeting to allow for these further refinements.

October 23, 2014

At a continued public hearing on October 23, 2014, the Planning Commission considered an alternate red-line version of the Historic Preservation Ordinance, which was drafted in significant part by Planning Commissioner Craig Corman in consultation with Planning Commission Chairman Howard Fisher.

A summary of the Planning Commission's discussion about the revised draft ordinance is as follows:

- Chair Fischer expressed his general concurrence with the suggestions, noting that he had the opportunity to discuss many of them with Commissioner Corman during the drafting process.
- Vice Chair Block was absent from the 10/23/14 meeting.

- Commissioner Shooshani voiced his support of Commissioner Corman's draft and expressed that he believed the Master Architect List is currently too expansive.
- Commissioner Rosenstein asked for clarification on the difference between voluntary and involuntary landmark designation criteria; questioned the need for a more stringent historic district formation threshold; expressed hesitation regarding the workability of limiting the CHC to four landmarks per year; and fully supported soliciting the CHC's feedback prior to forwarding the matter to the City Council.

The Planning Commission concluded its discussion by requesting that staff present the latest version of the Ordinance to the Cultural Heritage Commission for its review, and to bring any resulting comments back to the Planning Commission for its further consideration (see Attachment 3).

Cultural Heritage Commission Review

Subsequent to the Planning Commission's review on October 23, 2014, the Cultural Heritage Commission reviewed and discussed the amended Ordinance presented by Commissioner Corman at a public hearing on November 17, 2014, and a continued public hearing on November 24, 2014.

Commissioner Corman attended both hearings to explain his thoughts and answer questions, and this exchange resulted in his further refinements to the proposed ordinance that is now recommended to the Planning Commission.

The Cultural Heritage Commission's comments from these public hearings are summarized in Attachment 3. Additionally, the video archive of both meetings of the Cultural Heritage Commission is available at: http://beverlyhills.granicus.com/ViewPublisher.php?view_id=36.

Public Comment

One member of the public commented on the item at the November 17th and 24th Cultural Heritage Commission meetings.

1) Marcello Vavala, Los Angeles Conservancy

   Mr. Vavala commented that the LA Conservancy has serious concerns with the Ordinance as proposed, that it represents a major step backwards for Beverly Hills and historic preservation, and that his organization intended to submit a full written response.

DISCUSSION

This report transmits the alternate proposed amended Historic Preservation Ordinance (Exhibit A to Attachment 1 of this report) drafted by Commissioner Corman with input from the Planning Commission and Cultural Heritage Commission. If adopted by the City Council, the Ordinance would replace the existing Beverly Hills Municipal Code[1] Article 32 in its entirety, and would amend the recently-adopted BHMC §10-3-3251. Attachment 1 presents a clean version of the Draft Ordinance, while Attachment 2

[1] Available online at: http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

presents a redlined document provided by Commissioner Corman to highlight the proposed amendments, additions, and deletions to the current code.

A summary of the major proposed changes to the Historic Preservation Ordinance is provided below for ease of use.

1. Redefines select definitions (BHMC §10-3-3202)
    a. "Historic Resources" now referred to as "Eligible Properties"
    b. Redefines what might be considered character defining features
    c. Removes definition for "District"
2. Redefines "Master Architect" (§10-3-3202)
    a. New proposed definition: *An architect of recognized greatness in the field of architecture. At a minimum, a master architect shall have won a major architectural award, or his/her who work shall have been either the subject of a published monograph on his/her career or substantively discussed (i.e., not simply mentioned) and photographically depicted in at least three published scholarly works (e.g., books, treatises, or articles on architectural movements or trends) written by experts in the architectural field. Scholarly works published solely in electronic form and available for review without charge, or authored or published by the master architect himself/herself, shall not count toward this minimum.*
    b. The current List of Master Architects, adopted by City Council Resolution on July 3, 2012, features 182 discreet entries (with some overlap in persons, e.g., "William Pereira" and "Pereira and Luckman" are two separate entries)
    c. A preliminary evaluation was conducted by the City's historic consultant to gauge which of the parties on the current List of Master Architects would qualify under the new proposed Master Architect definition. Of the 182 current parties listed, it is estimated that 73 parties, or 40.1%, would qualify under the new criteria. This preliminary assessment can be found in Attachment 4.
    d. Specifies that the Director and Cultural Heritage Commission shall compile the revised List of Master Architects within 120 days of enactment of the Ordinance (§10-3-3218A).
3. Revises the Intent and Purpose of the Ordinance (§10-3-3203)
4. Renames the "Cultural Heritage Commission" the "Historic Preservation Commission" (§10-3-3207)
5. Revises the Powers and Duties of the Commission (§10-3-3208)
6. Shifts the authority to review and maintain a historic property survey from the Cultural Heritage Commission to the Director of Community Development. (§§10-3-3208 C & D; 10-3-3210)
7. Redrafts Landmark and Historic District Designation Criteria (§10-3-3212; 3213)
    a. If interior spaces are to be part of the landmark, they must independently satisfy the designation criteria.
    b. A comparison between the existing adopted Landmark Designation Criteria and proposed new criteria is provided in Table 1 in Attachment 5 to this report.

c. Clarifies that a district must be composed of proximate properties within a definable geographic area;

d. Eliminates the ability to form a historic district in the R-1 or single family residential zone;

e. All contributing properties in the district must be predominantly of the same architectural style, type, or period;

f. All contributing properties must retain substantial integrity.

8. Revises Landmark or Historic District Designation Proceedings (§10-3-3215)

   a. Institutes timeframes within which landmark initiations/nominations/designations must be furthered or acted upon. If timeframes are not met, items are considered not approved. Timeframes in the Ordinance may be extended by the decision-making body upon request of the owner/applicant;

   b. Establishes procedures for preliminary review of evidence (evaluation and hearing) prior to formal consideration;

   c. Limits the number of properties that the Commission may initiate (without agreement of the property owner) to 4 per year;

   d. Increases required time for notice of public hearing for formal nomination proceedings from 10 to 15 days;

   e. If a property or properties are considered and not designated, the non-designation shall be valid for a period of 5 (if initiated by property owner/s) or 10 years (if initiated by City Council or Commission);

   f. Removes minimum maintenance requirements.

   g. Allows the Director to waive the hold on permits if it can be determined that the issuance of such permits would not be detrimental to the historic property;

   h. Clarifies that permits can only be issued after the close of the appeal period for designation proceedings.

9. Clarifies procedures for temporary protections and permit issuance on properties while designation proceedings are pending (§10-3-3217)

10. Adjusts the hold period on permits to alter buildings older than 45 years (§10-3-3218)

11. Refines Certificate of Appropriateness procedures (§10-3-3219)

    a. Modifies timeframe for issuance from 75 to 60 days. Eliminates provision for time extension

12. Revises Certificate of Economic Hardship findings and procedures (§10-3-3220)

    a. Revises required finding no. 1 from:

"Denial of the application would decrease the value of the subject property so as to leave no substantial value," to

"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."

13. Replaces the Director's Determination of Ineligibility process (current §10-3-3204) with a new Certificate of Exemption Process (§10-3-3221)

    a. Enables an owner of a property to submit an application requesting determination that the subject property is not an eligible property under the Ordinance, within 30 days.

14. Inserts a section to enable designated historic properties the ability to apply for inclusion into the City's In Lieu Parking Program (§10-3-3228)

    a. Allows owners of locally designated properties to apply for a waiver of some or all in-lieu parking fees for Planning Commission consideration and City Council approval.

15. Institutes timeframes within which applications must be processed and acted upon

16. Clarifies the applicability of the Historic Incentive Permit (§10-3-3251)

17. Additional minor text changes.

To maintain internal consistency, further amendments to various sections of the Beverly Hills Municipal Code would also be required. Examples of these amendments include revising the code to reflect the nomenclature change from "Cultural Heritage Commission" to "Historic Preservation Commission" and revising BHMC Article 2.5 (Public Notice Requirements) to reflect the new public noticing timelines included in the Ordinance. These amendments will be incorporated as part of the overall Zoning Code Reorganization process that is currently underway by the Planning Division, which is tentatively scheduled for Planning Commission review in early 2015.

STAFFING AND FISCAL IMPACT ANALYSIS

The proposed ordinance will have some staffing and fiscal impacts. However, these impacts are not expected to be significant because: (1) the majority of applications/procedures already exist in the current ordinance; (2) the overall volume of various applications/procedures is not expected to increase substantially; and (3) future fees may be adopted that will offset significant portions of the impacts. As to the last point – staff will recommend that the City Council authorize a fee study subsequent to its action on the ordinance. Such a study would detail the incremental costs as well as make recommendations about the level of cost recovery. Staff will recommend that the effective date of the ordinance coincide with the additional appropriation and implementation of new fees.

Some of the staffing/fiscal impacts will represent one-time costs. The areas where limited impacts may occur relate to:

- Revising the inventory of eligible properties (One-Time)

- Preparing/modifying administrative guidelines (One-Time)
- Additional work required under the preliminary evaluation provision (On-Going)
- Additional work required under the certificate of exemption provision (On-Going)
- Modest increase in volume of 30-day hold applications (On-Going)
- Modest increase in staff time for outreach to the community and to realtors (One-Time)

The initial estimate of staffing/fiscal impacts is summarized below:

Staff Requirements – The additional one-time staffing requirements are estimated at 250 hours, or .13 FTEs (Full Time Equivalents). These hours can be accommodated within the department's existing work program. The additional on-going staffing requirements are estimated at 1500 hours per year, or .80 FTEs. These impacts cannot be accommodated with existing resources. Therefore, if the ordinance is approved, staff will recommend in next year's budget that the staffing requirements be met through part-time staff, the use of consultants or a combination of these.

Consultant Requirements – Significant portions of the technical work on Beverly Hills' historic preservation program relies on technical expertise provided by historic preservation consultants. Since inception of the program, the budget for this consultant assistance has averaged $75,000 per year. Similar to the staffing impacts discussed above, the proposed ordinance is expected to have both one-time and on-going impacts. The additional estimated one-time impacts for the first year would be $80,000. The additional estimated on-going impacts would be $86,000. Accordingly, the total first year costs are estimated at $241,000 and $161,000 in each subsequent year. Staff will recommend appropriations in these amounts in the FY 15/16 and subsequent budgets.

Cost Recovery – It should be noted that portions of the staff and consultant requirements may be offset through collection of new fees, as referenced earlier. Further, since there is no fee for most existing historic applications, it is possible that a portion of existing costs could also be recovered. A detailed fee study examining these costs and potential cost recovery is warranted. However, it is estimated that future fees could recover costs equivalent to as much as 1.5 FTEs and $125,000. Staff will recommend a fee study be prepared after City Council action on the proposed ordinance.

PUBLIC NOTICING

California Government Code Section 65090 requires that notice of a public hearing shall be provided in at least one newspaper of general circulation within the jurisdiction at least 10 days prior to the hearing. Notice of the December 11, 2014 Planning Commission public hearing was published in the *Beverly Hills Courier* on Friday, November 28, 2014 and the *Beverly Hills Weekly* on Thursday, December 4, 2014. At the time of the publication of this report, no public comments were received.

GENERAL PLAN[2] POLICIES

The City of Beverly Hills General Plan includes numerous goals and policies intended to guide development in the city. Some policies relevant to the Planning Commission's review of the Ordinance include:

- **Policy LU 2.6 City History**. Acknowledge the City's history of places and buildings, preserving historic sites, buildings, and districts that contribute to the City's identity while accommodating renovations of existing buildings to maintain their economic viability, provided the new construction contextually "fits" and complements the site or building.
- **Policy LU 3.1 Conservation.** Conserve existing residential neighborhoods, and non-residential areas where new development builds on and enhances the viability of existing business sectors that are the City's strengths, promotes transit accessibility, is phased to coincide with infrastructure funding and construction, and designed to assure transitions and compatibility with adjoining residential neighborhoods.

- **Policy LU 5.1 Neighborhood Conservation**. Maintain the uses, densities, character, amenities, and quality of the City's residential neighborhoods, recognizing their contribution to the City's identity, economic value, and quality of life.

- **Policy HP 1.1 Local Register of Historic Resources.** Consider establishing a local register of historic resources based on the City's historic resources inventory and any additional resources that qualify for designation under Federal, State, and local criteria. Develop criteria for locally significant resources which could include structures that have local importance due to their unique architecture or associations but which may not meet National Register Criteria.

- **Policy HP 1.3 Promote National, State and Local Designation of Historic Resources.** Develop programs to promote the nomination of properties listed on the City's historic resources inventory for listing on the local register of historic resources, California Register of Historic Resources, or National Register of Historic Places.

- **Policy HP 1.4 Develop Incentives to Protect Significant Historic Resources**. Develop and fund financial and regulatory incentives to encourage the protection of historic buildings, districts, and public landmarks/monuments from demolition or significant alteration, which may include Mills Act contracts, waiver of fees, flexible development standards, conservation easements, transfer of development rights, and other incentive-based mechanisms to make preservation feasible for owners and developers.

- **Policy HP 1.5 Tiered Regulations for Residential and Non-Residential Historic Resources.** Consider a tiered approach for regulating non-residential, multi-family residential and single-family residential historic resources. A tiered approach to regulation may include standardized thresholds that trigger mandatory protections against demolition and/or financial and regulatory incentives to encourage preservation which may be different for each building type.

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[2] Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

ENVIRONMENTAL ASSESSMENT

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. This Ordinance qualifies for a categorical exemption from the environmental review requirements of CEQA pursuant to Section 15305 (Class 5, Minor Alterations in Land Use Limitations) of Title 14 of the California Code of Regulations.

Report Reviewed By:

Kevin Kapadia for

William R. Crouch AIA, NCARB, AICP, LEED (AP)
Urban Designer

Attachment 1

Draft PC Resolution Recommending Ordinance
(including Draft Ordinance as Exhibit A)

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS SUPERSEDING RESOLUTION 1697, AND RECOMMENDING REPLACEMENT OF ARTICLE 32 (HISTORIC PRESERVATION) AND AMENDMENT OF ARTICLE 32.5 (HISTORIC INCENTIVE PERMIT) OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE

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 of the City of Beverly Hills, at its regular meeting on Thursday, November 21, 2013, held a public hearing to consider a resolution

of the Planning Commission of the City of Beverly Hills recommending that the City Council adopt amendments to Beverly Hills Municipal Code, Article 32: Historic Preservation Ordinance.

Section 5. The Planning Commission of the City of Beverly Hills, at its regular meeting on Thursday, October 9, 2014, was asked by staff to review and comment on additional proposed amendments to the Historic Preservation Ordinance, following comments received from: the Cultural Heritage Commission meetings on June 3, 2014 and September 30, 2014; members of a joint subcommittee of City Council, Planning Commission, and Cultural Heritage Commission representatives on September 16, 2014; members of the public; the State Office of Historic Preservation; and from the Los Angeles Conservancy.

Section 6. At the October 9, 2014 Planning Commission study session, Commissioner Corman indicated that he was working on drafting additional amendments to the Ordinance. Accordingly, the Planning Commission continued the matter to the October 23, 2014 meeting to allow Commissioner Corman to present his suggested Ordinance amendments.

Section 7. At the October 23, 2014 Planning Commission study session, the Commission was asked to review Commissioner Corman's Ordinance revisions, prepared with the assistance of Chair Fisher. On that occasion, the Commission received public comment and moved to forward the revised ordinance to the Cultural Heritage Commission for their consideration.

Section 8. At their special meetings of November 17, 2014 and November 24, 2014, the Cultural Heritage Commission reviewed Commissioner Corman's Ordinance revisions. On both occasions the Commission received public comment. On November 24, 2014, the Cultural Heritage Commission moved to forward the summary of the Commissioners' comments to the Planning Commission for their consideration.

Section 9. The Planning Commission of the City of Beverly Hills, 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 as set forth in Exhibit A at a duly noticed public hearing. At that time, the Planning Commission also adopted a resolution superseding the former resolution of 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. 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 Article 32 Chapter 3 Title 10 include the following:

1. Redefines select definitions (BHMC §10-3-3202);
2. Revises the Intent and Purpose of the Ordinance (§10-3-3203);
3. Renames the "Cultural Heritage Commission" the "Historic Preservation Commission" (§10-3-3207);
4. Revises the Powers and Duties of the Commission (§10-3-3208);

5. Shifts the authority to review and maintain a historic property survey from the Cultural Heritage Commission to the Director of Community Development. (§10-3-3208 C & D; 10-3-3210);
6. Redrafts Landmark and Historic District Designation Criteria (§§10-3-3212; 3213);
7. Revises Landmark and Historic District Designation Proceedings (§10-3-3215);
8. Clarifies procedures for temporary protections and permit issuance on properties while designation proceedings are pending (§10-3-3217);
9. Adjusts the hold period on permits to alter buildings older than 45 years (§10-3-3218);
10. Refines Certificate of Appropriateness procedures (§10-3-3219);
11. Revises Certificate of Economic Hardship findings and procedures (§10-3-3220);
12. Replaces the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Exemption Process (§10-3-3221);
13. Inserts a section to enable designated historic properties the ability to apply for inclusion into the City's In Lieu Parking Program (§10-3-3228);
14. Institutes timeframes within which applications must be processed and acted upon;
15. Clarifies the applicability of the Historic Incentive Permit (§10-3-3251);
16. Additional minor text changes.

Section 10. 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 11. 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. This Ordinance is 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 12. The Planning Commission does hereby recommend that the City Council adopt an Ordinance replacing Article 32 and amending Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 13. 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: December 11, 2014.

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

Attest:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Jay Trevino, AICP
Interim Assistant Director of Community Development/City Planner

Exhibit A – Draft Ordinance No. 15-_____, replacing Article 32 and amending Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code

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) OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE

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

Section 1. On _____, 2014, 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 two and half 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 replace existing Article 32. The substantive changes being proposed to Beverly Hills Municipal Code Article 32 Chapter 3 Title 10 include the following:

1. Redefines select definitions (BHMC §10-3-3202);
2. Revises the Intent and Purpose of the Ordinance (§10-3-3203);
3. Renames the "Cultural Heritage Commission" the "Historic Preservation Commission" (§10-3-3207);
4. Revises the Powers and Duties of the Commission (§10-3-3208);

5. Shifts the authority to review and maintain a historic property survey from the Cultural Heritage Commission to the Director of Community Development. (§10-3-3208 C & D; 10-3-3210);
6. Redrafts Landmark and Historic District Designation Criteria (§§10-3-3212; 3213);
7. Revises Landmark and Historic District Designation Proceedings (§10-3-3215);
8. Clarifies procedures for temporary protections and permit issuance on properties while designation proceedings are pending (§10-3-3217);
9. Adjusts the hold period on permits to alter buildings older than 45 years (§10-3-3218);
10. Refines Certificate of Appropriateness procedures (§10-3-3219);
11. Revises Certificate of Economic Hardship findings and procedures (§10-3-3220);
12. Replaces the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Exemption Process (§10-3-3221);
13. Inserts a section to enable designated historic properties the ability to apply for inclusion into the City's In Lieu Parking Program (§10-3-3228);
14. Institutes timeframes within which applications must be processed and acted upon;
15. Clarifies the applicability of the Historic Incentive Permit (§10-3-3251);
16. Additional minor text changes.

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 and subsequent 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: Historic Preservation 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 Older10-3-3219: Certificate Of Appropriateness
10-3-3220: Certificate Of Economic Hardship
10-3-3221: Certificate Of Exemption
10-3-3222: Appeals; Finality Of Decisions Regarding Certificates Of Appropriateness, Certificates Of Economic Hardship, And Certificates Of Exemption
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:

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 is a practicing architect and has received formal training in the design and construction of buildings from an accredited educational institution. 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 EXEMPTION: 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 Historic Preservation Commission as defined in section 10-3-3207 of this chapter.

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 of section 10-3-3213 of 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 reasonable beneficial use of the property or derive a reasonable 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 conclude that all of the applicable requirements for designation as a landmark 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, an exceptional work shall have won a major architectural award or a regional architectural award, or have been substantively discussed (*i.e.,* not simply mentioned) and photographically depicted in at least two published scholarly works (*e.g.*, monographs on a master architect's career, or books, treatises, or trade magazine articles on architectural movements or trends) written by an expert in the architectural field. Scholarly works published solely in electronic form and available for review without charge, or authored or published by the architect of the work, shall not count toward this minimum.

HISTORIC ASSESSMENT REPORT: A 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.

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 and forms part of the city's identity to the world at large.

INTEGRITY: The ability of a landmark or contributing property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

INVENTORY OF ELIGIBLE PROPERTIES: A list maintained by the city that contains all properties surveyed for historical or architectural significance and determined by the director 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, landscape, or natural feature located on it that has been designated as a landmark under 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 if the public space(s) separately satisfies the landmark requirements.

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: A so-called "Global" or "National" award given annually or for a lifetime of achievement to an architect or building by an authoritative body in the architectural field.

MASTER ARCHITECT: An architect of recognized greatness in the field of architecture. At a minimum, a master architect shall have won a major architectural award, or his/her work shall have been either the subject of a published monograph on his/her career or substantively discussed (*i.e.*, not simply mentioned) and photographically depicted in at least three published scholarly works (*e.g.*, books, treatises, or articles on architectural movements or trends) written by experts in the architectural field. Scholarly works published solely in electronic form and available for review without charge, or authored or published by the master architect himself/herself, shall not count toward this minimum.

MILLS ACT: The California Government Code sections 50280 et seq., as it may be amended from time to time.

NATIONAL REGISTER OF HISTORIC PLACES: The official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and/or culture which is maintained by the secretary of the interior under the authority of the historic sites act of 1935 and the national historic preservation act of 1966, as amended (16 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 chapter.

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 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.
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, landscape, 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.

REGIONAL ARCHITECTURAL AWARD: An award given annually to a building by a regional chapter of an authoritative body in the architectural field.

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 ALTERATION: Any destruction, relocation, or alteration activities that would materially change a property's character defining features or impair its historical significance.

SUBSTANTIAL INTEGRITY: Complete or near-complete integrity. At a minimum, an overwhelming majority of the salient design elements and character defining features continue 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. 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. Promoting greater awareness and understanding of the city's history through the preservation and maintenance of its 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 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: HISTORIC PRESERVATION COMMISSION:

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

B. Appointment and Qualifications. The commission shall be composed of five (5) members appointed by the city council, all of whom shall be residents of the city. Members of the commission shall have the duties and functions set forth in this article.

The commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two (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. Term: The term of office for each commissioner shall begin with March 1, and shall be an initial term of two (2) years, except that three (3) of the initially appointed commissioners shall be appointed for an initial term of four (4) years.

Each commissioner shall thereafter have the opportunity for reappointment to an additional four (4) year term. An appointment to fill a vacancy on the commission shall be for the period of the unexpired term.

D. Rules And Orders: The city council shall appoint the first chair and vice chair of the commission. Thereafter, the commission shall elect officers and establish its own rules and regulations, which shall be consistent with the 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.

E. Secretary of the Commission. The director shall assign an employee of the community development department, other than the director, to be the secretary of the commission, and assign duties to the employee which shall be in addition to the duties regularly prescribed for that employee.

The secretary shall attend commission meetings and keep a record of the proceedings and transactions of the commission, specifying the names of the commissioners in attendance at each meeting and the ayes and noes upon all roll calls. The secretary shall, among other duties, post and publish all orders, resolutions, and notices which the commission shall order to be posted and published.

F. Scheduled Meetings. The commission shall meet at least four (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.

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

H. Commission Authority in Development Review. When this article is applicable in the review of a project consisting of a development entitlement pursuant to other articles of this title, the historic preservation 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. 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;

F. 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;

G. Review and approve 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;

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

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

J. 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;

K. 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;

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

M. 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;

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

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

P. 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 director 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 is a remarkable example of a single architectural style, 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 for a period of at least five (5) years, 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 iconic property; or

5. 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 characteristics of a single architectural style, 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 PROCEDURES:

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 inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall 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.

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: 1) is listed on the local inventory; 2) was designed by a person identified on the local list of master architects; or 3) or was owned and occupied by a person of great importance.

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 conclude that all of the 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 any 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 sixty (60) days for the commission to consider nomination. 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.

   b. At any 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 sixty (60) 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).

c. Where designation proceedings are initiated by the commission, a maximum of four (4) properties may be formally considered for nomination per calendar year. Designation proceedings initiated with the agreement of the property owners(s) shall not count toward the maximum set forth in this subsection.

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. This historic assessment report shall be comprehensive in nature, and shall include not only the requisite findings but also all known facts and circumstances that either support or possibly refute those findings. The report shall be completed no more than thirty (30) days after a determination that formal nomination consideration is merited, 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 thirty-day period 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 forty five (45) days after the commission's determination to formally consider nomination, then such a failure will be deemed to be a final decision by the commission not to nominate the subject property.

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 from the date set for the initial public 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. Properties, buildings, structures, and objects that happen to be located within a proposed district but are otherwise unrelated to the area's period of significance or identifying historic characteristics shall be deemed noncontributing properties.

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.

F. Appropriateness Or Economic Hardship Considerations. Whenever the owner of a proposed landmark or contributing property in a proposed historic district contends that the property would be eligible for a certificate of appropriateness or a certificate of economic hardship in a separate proceeding under section 10-3-3219 or section 10-3-3220 of this article, the owner may request that the commission consider issuing such a certificate at the nomination hearing based on such facts as the owner may present at or prior to the hearing. Upon receiving

such a request, the commission may order a peer review as set forth in section 10-3-3220.A. of this article, and the owner shall pay any required fee for the peer review and agree to a reasonable extension of the deadlines set forth in this section for the commission to consider the facts presented by the owner and the results of the peer review. In such circumstances, if the commission determines that the property otherwise merits nomination for designation, it shall also determine whether or not to issue the requested certificate of appropriateness or economic hardship.

G. Hearing And Decision By The City Council. The city council shall consider the matter within thirty (30) days 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 by the council 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 action on the matter within the thirty (30) day time period to act, 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 list of the contributing properties;

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. From and after the adoption by the city council of a resolution designating the property(ies) a local landmark or historic district, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of the property, or of contributing properties within historic districts, is subject to the provisions of this article. The owner(s) of such property(ies) shall maintain and preserve the historic resource at such a level that it does not become a safety hazard to the occupants or to the public.

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 be barred from initiating further designation proceedings concerning the same property, in whole or in part, for a period of ten (10) years.

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.

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 are not sufficient reasons to repeal a designation. The repeal of a landmark or historic district may be initiated by the commission, the city council, or an owner 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 PROPERTYWHILE DESIGNATION PROCEEDINGS ARE PENDING; TEMPORARY PROTECTIONS:

Upon initiation of designation proceedings by the city council or the commission, or upon a determination by the commission that an application submitted by the owner(s) of a subject property merits formal consideration for nomination, 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 this chapter, shall be subject to a thirty (30) day holding period prior to the issuance of any permits. Permit applications may be processed, but no final action shall be taken until after the thirty (30) day period has ended. 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.

A. 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 within one hundred and twenty (120) days of the enactment of this article. Until such time as the list of master architects is compiled, but in no event after the expiration of that one hundred and twenty (120) day period, the city shall use a

list of master architects maintained by the previous cultural heritage commission for purposes of applying this section and section 10-3-3215.A.2.a, 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 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 Non-contributing 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. 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 a qualified historic preservation consultant 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.

B. Public Hearing: Once the director determines that an application for a certificate of economic hardship and any applicable peer review 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.

C. 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.

D. 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.

E. 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.

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

G. 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 EXEMPTION.

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. Administrative Procedure: A request for a certificate of exemption 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, a historic assessment report as required by the director, and payment of applicable fees to process the application and fund a peer review, by a qualified historic preservation consultant selected by the city, of the information submitted by the applicant. 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 inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall 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 report 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 exemption; 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 report on the subject property within the allotted thirty (30) days, such failure will be deemed a finding of non-eligibility, and the director shall issue the requested certificate of exemption without further delay.

B. Appeals. If the director declines to issue a requested certificate of exemption, the property owner may appeal the director's decision to the commission. Any such appeal shall be made in writing and shall set forth all of the facts that the property owner believes establish that the director's decision was erroneous. Thereafter, 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 the appeal is filed, the director shall schedule another meeting to occur within thirty (30) days after the appeal is filed at which the commission shall hear the appeal. 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 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.

C. Effect Of Issuance of Certificate: Issuance of a certificate of exemption bars the commission or the city council from initiating landmark designation proceedings concerning the subject property for a period of ten (10) years.

D. Effect Of Non-Issuance: A final determination not to issue a certificate of exemption bars the owner of the subject property, and any successor in interest, from filing another application for a certificate of exemption concerning the same property for a period of five (5) years. Any such final determination may also serve as a basis for the director to list the subject property on the local inventory.

E. 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 EXEMPTION:

A. Authority To Appeal Decisions: Only the applicant for a certificate of appropriateness, certificate of economic hardship, or certificate of exemption, 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 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 exemption under this article shall become final if no appeal is submitted within the applicable appeal period and the decision is not called for review by the city council pursuant to the provisions of title 1, chapter 4, article 2 of this code.

C. Appeal Of Director Actions: A final decision by the director pursuant to this article may be appealed to the commission within fifteen (15) days from the date of the decision pursuant to the procedures set forth in title 1, article 4, chapter 2 of this code.

D. Appeal Of Commission Actions: A final decision by the commission pursuant to section 10-3-3219 or section 103-3220 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 final decision by the commission pursuant to any section of this article may be called for city council review pursuant to the provisions of title 1, chapter 4, article 2 of this code. The city council shall act within thirty (30) 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. The owner or the selling agent shall provide the notice 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.

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.

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 is

required 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.

10-3-3229: 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 exemption."

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 Historic Preservation 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 Historic Preservation 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. 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 8. 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 9. 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:

_____
LILI BOSSE
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:

_____
JEFFREY KOLIN
City Manager

_____
SUSAN HEALY KEENE AICP
Director of Community Development

Attachment 2

Redlined code sections – BHMC Article 32 and BHMC §3215

Article 32. Historic Preservation

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~~ Historic Preservation Commission
10-3-3208: Powers And Duties Of The Commission
10-3-3209: Preservation Incentives
10-3-3210: Establishment Of ~~A~~ The Local Inventory Of Eligible Properties ~~Historic Resources~~
10-3-3211: Establishment Of ~~A~~ The City of Beverly Hills ~~Local~~ 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 ~~Procedures~~
10-3-3216: Amendment Or Rescission Of Landmark Or Historic District Designation
10-3-3217: ~~Pending~~ Demolition, Alteration, Or Relocation Of Property While Designation Proceedings Are Pending; Temporary Protections ~~Pending Designation~~
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 Appropriateness Term, Extension, Modification~~
10-3-322~~1~~0: Certificate Of Economic Hardship
10-3-3221: Certificate Of Exemption
10-3-3222: Appeals; Finality Of Decisions ~~For~~ Regarding Certificates Of Appropriateness, ~~And~~ Certificates Of Economic Hardship, And Certificates Of Exemption
10-3-3223: Historic ~~Resource~~ 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
10-3-322~~8~~9: City Owned Properties; School District Properties
10-3-32~~29~~30: Dangerous And Immediately Dangerous Properties
10-3-3251: Applicability: The Historic Incentive Permit Shall Be Available Only To:

10-3-3201: TITLE:

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This article shall be known as the *HISTORIC PRESERVATION ORDINANCE OF THE CITY OF BEVERLY HILLS*. (Ord. 12-O-2617, eff. 2-24-2012)

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 ~~negative~~ effect on character defining features of a property~~historic resource~~. 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 is a practicing architect and has received formal training in the design and construction of buildings from an accredited educational institution. The term "architect" shall include any partnership, architectural firm, or other professional group comprised of such persons.

~~ARCHAEOLOGICAL SITE: An area where remains of man or man's activities prior to keeping of history are still evident.~~

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 ~~may be~~ amended from time to time.

~~CALIFORNIA REGISTER OF HISTORICAL RESOURCES: The authoritative and comprehensive listing and guide to California's significant historical resources as defined in California Public Resources Code section 5020.1, as may be amended. Also referred to as the California register.~~

CERTIFICATE OF APPROPRIATENESS: A certificate issued to approve alteration, restoration, construction, removal, relocation in whole or in part, or demolition of a designated landmark or property within a historic district.

CERTIFICATE OF ECONOMIC HARDSHIP: A certificate authorizing work described in an accompanying certificate of appropriateness because of ~~extreme~~ a finding of economic hardship pursuant to ~~financial privation or adversity and in accordance with the procedures and findings of~~ this article.

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

~~CERTIFIED LOCAL GOVERNMENT: A local government that participates in the program authorized by the national historic preservation act of 1966 (16 USC section 470 et seq.) and the subsequent participatory agreement between the city and the state of California office of historic preservation.~~

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CHARACTER DEFINING FEATURE: A prominent or distinctive aspect, quality, detail, or characteristic of a ~~historic resource~~property that contributes significantly to its physical character and historical significance. Such features may include, but are not limited to, ~~landscaping, setbacks,~~ 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, ~~windows, doors,~~ 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 ~~the provisions of~~ this article. The register shall also include~~s~~ contributing properties within historic districts. ~~Also referred to as the local register.~~ 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~~Historic Preservation ~~c~~Commission as defined in section 10-3-3207 of this chapter.

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 of section 10-3-3213 of ~~under criteria set forth in~~ this article.

DEMOLITION ~~OR~~ or DEMOLISH: Any act or process that destroys a property in part or in whole ~~an individual historic resource~~ such that the historic character and character defining features of the property are completely removed and cannot be repaired or replaced. The terms "demolition" or "demolish" shall include, but are not limited to, the act of pulling down, destroying, removing, or razing a property, or commencing work thereof with the intent of completing the same.

DIRECTOR: The city's director of community development~~, or her/his designee~~.

~~DISTRICT: See definition of Historic District Or District.~~

ECONOMIC HARDSHIP: The ~~facts and circumstances which establish that there are no feasible measures that can be taken which will enable the~~ inability of a property owner to make a reasonable beneficial use of the property or derive a reasonable 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 conclude that all of the applicable requirements for designation as a landmark 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, an exceptional work shall have won a major architectural award or a regional architectural award, or have been substantively discussed (*i.e.*, not simply mentioned) and photographically depicted in at least two published scholarly works (*e.g.*, monographs on a master architect's career, or books, treatises, or trade magazine articles on architectural movements or trends) written by an expert in the architectural field. Scholarly works published solely in electronic form and available for review without charge, or authored or published by the architect of the work, shall not count toward this minimum.

~~EXCEPTIONAL SIGNIFICANCE: A property having extraordinary importance under applicable evaluation criteria and context as defined in: "Criteria Consideration G: Properties That Have~~

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~~Achieved Significance Within The Last Fifty Years" in the "National Register Bulletin: How To Apply The National Register Criteria For Evaluation".~~

HISTORIC ASSESSMENT REPORT: A 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.

HISTORIC DISTRICT ~~OR~~ 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.

~~HISTORIC RESOURCE: Historic property. A property determined to be a historic resource under CEQA, NEPA, section 106 of the national historic preservation act of 1966, as amended; or any other provision of California law; or a property listed, nominated, or eligible for listing in the local register, including landmarks, historic districts, and contributing properties.~~

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 and forms part of the city's identity to the world at large.

INTEGRITY: The ability of a landmark or contributing property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

~~HISTORIC RESOURCES~~ INVENTORY OF ELIGIBLE PROPERTIES ~~OR LOCAL INVENTORY~~: A list maintained by the city that~~, which~~ contains all properties surveyed for historical or architectural significance and determined by the director to be eligible properties~~historic resources and all properties within neighborhoods or areas determined to be eligible historic districts~~. In creating and maintaining the inventory, surveys~~, either~~ of individual properties or of several properties ~~at once,~~ may ~~shall~~ be conducted, and any~~the~~ 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. ~~Surveys may be conducted and the resulting information compiled: a) by or on behalf of the city; or b) by a qualified historic preservation consultant for a specific property, in which case the individual survey shall be submitted to, and deemed sufficient by, the director. The director shall determine whether an individual survey merits inclusion of the specific property on the local inventory.~~

~~INTEGRITY: The ability of a landmark or contributing property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.~~

LANDMARK: Any property, including any building, structure, object, place, landscape, or natural feature located ~~i~~on it that has been designated as a landmark under this article and is listed on the local register ~~as approved by the city council pursuant to this article~~. 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 if the public space(s) separately satisfies the landmark requirements.

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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. ~~, and architects, designers and builders who may not be of recognized greatness, but who have designed or built properties in the city and are of local importance as determined by the city council on recommendation from the cultural heritage commission.~~

LOCAL INVENTORY: The inventory of eligible properties.

LOCAL REGISTER OF HISTORIC PROPERTIES or LOCAL REGISTER: ~~See definition of~~The City ~~O~~of Beverly Hills ~~R~~register of historic properties .

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

MAJOR ARCHITECTURAL AWARD: A so-called "Global" or "National" award given annually or for a lifetime of achievement to an architect or building by an authoritative body in the architectural field.

MASTER ARCHITECT: An architect of recognized greatness in the field of architecture. At a minimum, a master architect shall have won a major architectural award, or his/her ~~who~~ work shall have been either the subject of a published monograph on his/her career or substantively discussed (*i.e.*, not simply mentioned) and photographically depicted in at least three published scholarly works (*e.g.*, books, treatises, or articles on architectural movements or trends) written by experts in the architectural field. Scholarly works published solely in electronic form and available for review without charge, or authored or published by the master architect himself/herself, shall not count toward this minimum. ~~is included on the list of such architects compiled by the cultural heritage commission, and updated from time to time. See definition of List Of Local Master Architects.~~

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MILLS ACT: The California Government Code sections 50280 et seq., as it may be amended from time to time.

NATIONAL REGISTER OF HISTORIC PLACES: The official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and/or culture which is maintained by the secretary of the interior under the authority of the historic sites act of 1935 and the national historic preservation act of 1966, as amended (16 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 ~~RESOURCE~~PROPERTY: A property ~~included in the local inventory~~ that has been nominated by the commission for listing on the local register as a landmark or a contributing property ~~of a historic district for listing on the local register as provided for in this article~~.

NONCONTRIBUTING PROPERTY: A property within a designated historic district that is not a "contributing property~~", as previously defined~~.

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

ORDINARY MAINTENANCE AND REPAIR: Any work that meets the criteria established in

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subsection 10-3-3219.B of this chapter.

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

PERIOD OF SIGNIFICANCE: The span of time that a property or geographic area ~~was associated with important events, activities, or persons, or~~ attained the character defining features that qualify it for designation as a landmark or historic district.

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.

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 ~~historic resource~~.

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

PROPERTY 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 ~~the definitions of~~ contributing properties and noncontributing properties~~. For the definition of "contributing properties~~ in a historic district~~s" see definition of Contributing Property~~.

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, landscape, or a part thereof, as it appeared at a specified period of time prior to alteration or demolition.

~~REGISTER OF HISTORIC PROPERTIES (REGISTER): See definition of City Of Beverly Hills Register.~~

REHABILITATION: Any act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or character defining features which convey its historical, cultural, or architectural values.

RELOCATION: The act or process of moving all or part of a property ~~historic resource~~ from one site to another site, or to a different location on the same site.

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REGIONAL ARCHITECTURAL AWARD: An award given annually to a building by a regional chapter of an authoritative body in the architectural field.

~~RESOURCE: See definition of Historic Resource.~~

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

SECRETARY OF THE INTERIOR'S STANDARDS: The "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings" found at 36 CFR 68.3, as ~~it may be~~ amended from time to time.

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

~~SITE: The location of a significant event, a prehistoric or historic occupation or activity, or a building, structure, or object, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing construction.~~

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 there-under, as ~~they may be~~ amended from time to time[1].

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

SUBSTANTIAL ALTERATION: Any destruction, relocation, or alteration activities that would materially change a ~~historic resource~~ property's character defining features or impair its historical significance.

SUBSTANTIAL INTEGRITY: Complete or near-complete integrity. At a minimum, an overwhelming majority of the salient design elements and character defining features continue 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 ~~resources~~ properties ~~by~~ which ~~properties are documented and evaluated for~~can be used to determine whether any specific property is an eligible property that may be listed ~~inclusion~~ on the local inventory. 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. ~~and potential eligibility for listing on the city's register, the California register, or the national register.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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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 ~~cultural~~ history. The standards and requirements in this article are intended to be flexible, taking into account financial feasibility on the part of a property owner to meet the article's provisions. Further, it is the intent and purpose of this article to promote the public health, safety, and general welfare by ~~providing for the identification, recognition, designation, protection, enhancement, perpetuation, and use of historic resources that reflect associations important in the city's history, and to~~:

A. ~~Safeguard the character and history of the city which is reflected in its unique architectural, historical, and cultural heritage;~~Promoting greater awareness and understanding of the city's history through the preservation and maintenance of its historic properties;

B. Fostering civic ~~and neighborhood~~ pride and a sense of identity ~~based on~~through the recognition of ~~the city's past~~ historical and architectural accomplishments of the city and its residents ~~as reflected through its buildings, structures, objects, landscaping, natural features, infrastructure, and engineering~~;

C. ~~Promote~~Educating the public ~~education and awareness by preserving and e~~about~~ncouraging interest in~~ 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. Enhance~~e~~ing property values~~, stabilize neighborhoods,~~ and ~~render~~ making the city's historic ~~landmarks and contributing~~ properties ~~in historic districts~~ eligible for financial benefits and incentives;

F. Acknowledge~~e~~ing the critical role served by owners of the city's historic ~~landmarks and contributing~~ properties ~~in historic districts~~ in furthering the goal of historic preservation pursuant to the city's general plan;

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G. Encourage~~ing~~ preservation and adaptive reuse of historic ~~landmarks and contributing~~ properties ~~in historic districts~~ by allowing changes to them ~~historic properties~~ 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 ~~landmarks and contributing~~ properties. ~~in historic districts.~~ (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3204: ADMINISTRATIVE GUIDELINES:

The director is authorized to develop and make publicly available guidelines for the nomination, designation, and preservation of historic ~~resources~~ properties, and such other supporting documents as the director deems necessary or desirable to implement this article. ~~These administrative guidelines shall serve as baseline standards for evaluation and designation of historic resources, and processing certificates of appropriateness pursuant to this article.~~

~~The administrative guidelines shall include a process for the director to determine that a property is, at a certain time, ineligible for designation, which determination shall remain valid for a five (5) year period.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3206: MINIMUM MAINTENANCE REQUIREMENTS:

Every owner, ~~of~~ and every person in possession or control, of a historic ~~landmark property or contributing~~ property shall, to the maximum extent practicable, ~~shall~~ maintain and keep the property in good repair, as defined in sections 5-7-3 and 5-7-4 of this code. In the event ~~case~~ 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. (Ord. 12-O-2617, eff. 2-24-2012)

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10-3-3207: ~~CULTURAL HERITAGE~~ HISTORIC PRESERVATION COMMISSION:

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A. Establishment Of Commission: There is hereby established the ~~cultural heritage~~ historic preservation commission. The commission shall have and exercise the powers and perform the duties set forth in this article with respect to historic preservation.

B. Appointment And Qualifications: The commission shall be composed of five (5) members appointed by the city council, all of whom shall be residents of the city. Members of the commission shall have the duties and functions set forth in this article.

The commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two (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. Term: The term of office for each commissioner shall begin with March 1, and shall be an initial term of two (2) years, except that three (3) of the initially appointed commissioners shall be appointed for an initial term of four (4) years. Each commissioner shall thereafter have the opportunity for reappointment to an additional four (4) year term. An appointment to fill a vacancy on the commission shall be for the period of the unexpired term.

D. Rules And Orders: The city council shall appoint the first chair and vice chair of the commission. Thereafter, the commission shall elect officers and establish its own rules and regulations, which shall be consistent with the ~~cultural heritage~~ 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.

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E. Secretary Of The Commission: The director shall assign an employee of the community development department, other than the director, to be the secretary of the commission, and assign duties to the employee which shall be in addition to the duties regularly prescribed for that employee.

The secretary shall attend commission meetings and keep a record of the proceedings and transactions of the commission, specifying the names of the commissioners in attendance at each meeting and the ayes and noes upon all roll calls. The secretary shall, among other duties, post and publish all orders, resolutions, and notices which the commission shall order to be posted and published.

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F. 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.

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

H. Commission Authority In Development Review: When this article is applicable in the review of a project consisting of a development entitlement pursuant to other articles of this title, the ~~cultural heritage~~ historic preservation 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. (Ord. 12-O-2617, eff. 2-24-2012)

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

Unless otherwise specified herein, the duties of the ~~cultural heritage~~ 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. Review a citywide survey of historic resources, which is periodically updated, and other surveys on a case by case basis, and recommend adoption of the survey conclusions by the city council;~~

~~D~~C. Compile or cause to be compiled and maintained the~~a~~ local register listing and describing all designated ~~landmarks, historic districts, and contributing~~ historic properties within the city;

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~~E~~D. Compile or cause to be compiled and maintained the~~a~~ "list of local master architects"~~ as defined by this article~~;

~~F~~E. Conduct studies and evaluations of applications or proposals seeking the designation of ~~potential landmarks and historic districts~~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~~F. Develop designs for suitable signs, plaques, or other markers that may be placed, at private expense, on or near a designated ~~landmark, historic district, or contributing~~ historic property indicating that the ~~resource~~ property has been designated as such;

~~H~~G. Review and approve applications for certificates of appropriateness and ~~certificates of~~ economic hardship,~~ as applicable~~ 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~~H. Recommend, promulgate, and amend, from time to time, such rules and regulations as it may deem necessary to implement the purposes of this article;

~~J. Assume the responsibilities and duties that may be assigned to the commission by the city under the certified local government provisions of the national historic preservation act of 1966, as amended, including, but not limited to, compliance with the national environmental protection act (NEPA) and the California environmental quality act with regard to historic resources;~~

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

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

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~~M~~J. Provide recommendations to the city council regarding the utilization and promotion of incentives and grants from federal and state agencies, private groups, and individuals, and regarding budgetary appropriations to advance the preservation of historic ~~resources~~ properties in the city;

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

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

~~P~~M. 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 ~~resources~~properties;

~~Q~~N. Develop a program to celebrate historic and eligible ~~resources~~properties, and recognize outstanding maintenance, rehabilitation, and preservation of ~~landmarks, historic districts, and contributing~~ historic properties;

~~R~~O. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year ~~in accordance with the requirements of the certified local government program~~; and

~~S~~P. Perform any other functions that may be designated by resolution or motion of the city council. (ord. C-6961 section 1 (part), 1992). (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3209: PRESERVATION INCENTIVES:

The city council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve ~~city landmarks, historic districts, and contributing~~ historic properties. ~~Preservation incentives shall be made available to owners of landmarks and contributing properties.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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10-3-3210: ESTABLISHMENT OF ~~A~~ THE ~~LOCAL~~ INVENTORY OF ~~HISTORIC RESOURCES~~ ELIGIBLE PROPERTIES:

The inventory of eligible properties is hereby created. The ~~commission, acting with the administrative support of the~~ director ~~or his or her designee,~~ shall maintain ~~a~~ the local inventory ~~of eligible historic resources and all properties within areas identified to be eligible historic districts within the city as such is defined and provided for in the CEQA guidelines section 15064.5(a)(2)~~ and determine which properties are eligible properties that may be listed on it, and shall periodically review, amend, and update the local inventory as appropriate. ~~Resources~~ Properties listed on the ~~city's historic resources~~local inventory~~, or individually assessed and identified as potentially eligible, are eligible for nomination~~ may be nominated for inclusion on ~~to~~ the city's local register of historic properties as set forth in this article. (Ord. 12-O-2617, eff. 2-24-2012)

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

The City of Beverly Hills register of historic properties ~~A local register of historic resources~~ is hereby created. ~~The purpose of the local register is to provide a means to preserve, protect, and enhance the most significant historic resources within the community.~~ Properties listed on the local register may be identified on site with an exterior marker or plaque displaying pertinent information about the ~~resource~~ 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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3212: LANDMARK DESIGNATION CRITERIA:

An ~~nominated~~ eligible property may be nominated and designated as a landmark if it ~~is more than forty five (45) years of age and~~ 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 ~~Properties that are less than forty five (45) years of age can be designated, but in addition to meeting the criteria below, they must also exhibit "exceptional~~ extraordinary significance~~" as defined in this article.~~;

2. It is a remarkable example of a single architectural style, 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:

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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 for a period of at least five (5) years, 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 iconic property; or

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

~~For the purposes of this section, any interior space or spaces open to the general public, including, but not limited to, a lobby area, may be included in the landmark designation of a property if the city council finds that the public space(s) satisfies the following criteria:~~

~~To be designated as a landmark, a property must satisfy the following criteria:~~

~~A. The property meets at least two (2) of the following criteria:~~

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

~~2. Is directly associated with the lives of significant persons important to national, state, city or local history;~~

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

~~4. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;~~

~~5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;~~

~~6. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been determined eligible by the state historical resources commission for listing on the California register of historical resources.~~

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

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~~C. The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article.~~
(Ord. 12-O-2617, eff. 2-24-2012)

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10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:

~~A. Historic District Designation Criteria:~~ A geographic area may be nominated and designated as a historic district if the ~~proposed~~ district ~~is found to meet~~satisfies all of the following ~~criteria:~~ 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 characteristics of a single architectural style, 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.
~~1. At least seventy percent (70%) of the properties in the proposed district have been identified as contributing properties.~~
~~2. The district meets at least two (2) of the following criteria:~~
~~a. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;~~
~~b. Is directly associated with the lives of significant persons important to national, state, city or local history;~~
~~c. Embodies the distinctive characteristics of a style, type, period, or method of construction;~~
~~d. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;~~

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~~e. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;~~
~~f. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been formally determined eligible by the state historic preservation office for listing on the California register of historical resources.~~
~~3. The proposed district retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in this subsection A. A proposed contributing property's or district's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.~~
~~4. The nominated district is of significant architectural value to the community, beyond its simple market value, and its designation as a district is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article.~~
~~5. The district is a contiguous or noncontiguous grouping of thematically related properties, or a definable area possessing a concentration of historic, scenic, or thematic sites, which contribute to each other and are unified aesthetically by plan, physical development, or architectural quality.~~
~~6. The district reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.~~
~~7. The proposed designation is in conformance with the purpose of the city's historic preservation provisions set forth in this article and the city's general plan.~~

~~B. Consideration Factors: In determining whether a geographic area meets the criteria in subsection A of this section, the following factors shall be considered:~~
~~1. The historic district should have integrity of design, setting, materials, workmanship, and association.~~
~~2. The collective historic value of the properties in a historic district taken together may be greater than the historic value of each individual property.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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

Whenever streetscape improvements are proposed by the city in ~~areas that are designated~~ 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.

~~(Ord. 12-O-2617, eff. 2-24-2012)~~

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

A property~~, or properties, included in the local inventory~~ 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 ~~in accordance with~~ pursuant to the ~~procedures~~ 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.

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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 inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall 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.

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: 1) is listed on the local inventory; 2) was designed by a person identified on the local list of master architects; or 3) or was owned and occupied by a person of great importance.

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 conclude that all of the 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

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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 any 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 sixty (60) days for the commission to consider nomination. 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.

b. At any 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 sixty (60) 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).

c. Where designation proceedings are initiated by the commission, a maximum of four (4) properties may be formally considered for nomination per calendar year. Designation proceedings initiated with the agreement of the property owners(s) shall not count toward the maximum set forth in this subsection.

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. This historic assessment report shall be comprehensive in nature, and shall include not only the requisite findings but also all known facts and circumstances that either support or possibly refute those findings. The report shall be completed no more than thirty (30) days after a determination that formal nomination consideration is merited, 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

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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 thirty-day period 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 forty five (45) days after the commission's determination to formally consider nomination, then such a failure will be deemed to be a final decision by the commission not to nominate the subject property.

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. ~~A. City Council Or Commission Initiation Of Nomination Proceedings: Any property, or properties, may be nominated for designation as a city landmark or historic district, respectively, by the city council or cultural heritage commission. Initiation by the city council or the commission shall be by majority vote. The city council or the commission shall forward the initiation to the director for a report and recommendation.~~

~~B. Application For Nomination By A Property Owner Or Property Owners: If proposed by the property owner, an application for the proposed designation shall be completed on a form provided by the department, and shall include all information required, payment of required fee, and filing of the application with the department. In the event that owners wish to nominate an area for designation as a local historic district, the owners of more than fifty percent (50%) of property in the proposed district must demonstrate support for the application. The director shall conduct an evaluation of the proposed designation and shall make a recommendation to the commission as to whether the application warrants formal consideration.~~

~~C. Initial Notification To The Property Owner: Within ten (10) days of a decision by the city council or commission to initiate nomination proceedings, or of the filing of a designation application, the owner(s), designated agent or agents, and tenants of the subject property(ies), if applicable, shall be notified by mail of the intent to have the commission consider the preliminary evaluation of the property(ies). Once completed, the owner(s) or designated agent or agents shall receive a copy of the evaluation assessment report.~~

~~D. Preliminary Consideration Of The Property Owner Application By The Commission: When nomination procedures are initiated by an owner(s), a hearing to determine whether the property(ies) warrant formal consideration by the commission shall be scheduled within sixty (60) days of filing of an application. If, based on the criteria set forth in section 10-3-3212 or 10-3-3213 of this chapter the commission determines that the application warrants formal consideration, it shall schedule a public hearing within forty five (45) days of such determination. A decision that an application does not warrant formal consideration shall be a final action of the commission, which is appealable pursuant to title 1, chapter 4, article 2 of this code. Any determination of the commission regarding whether an application warrants formal consideration shall be in writing, shall be filed by the commission secretary with the director, and shall be provided to the owner(s).~~

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~~E~~C. Notice Of ~~Public~~ Nomination Hearing~~:~~: Written notice of the date, time, place, and purpose of a public hearing for the commission to formally consider ~~an application~~ 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 ~~ten~~ fifteen (15~~0~~) days prior to said hearing to the applicant, if any, and to ~~and~~ all owner(s) of the affected property~~ies~~ and their respective designated agent(s). ~~proposed for nomination. A public hearing notice regarding designation of a historic district shall be provided to all owners within the proposed district. Failure to send notice by mail to any such owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. When the owner(s) petition the city for designation, it is the petitioner's obligation to furnish to the director a current list of names and legal mailing addresses of all owners to be notified, and to pay such fee to cover the costs of providing notification as shall be established by resolution of the city council. When the proposed designation is by city initiative, the community development department shall be responsible for preparing the notification list.~~ The commission may also direct that other notice be provided as it deems appropriate.

~~F. Interim Protection Measures: Upon initiation by the city council or commission, or upon determination that the application submitted by an owner(s) warrants formal consideration by the commission, any alteration, restoration, construction, removal, relocation, or demolition, in whole or in part, of a nominated property or property located in a nominated district is prohibited, and no permits shall be issued by any city department, board, or commission, including, but not limited to, a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, any administrative approval, design review approval, or architectural review approval. No building permit authorizing any alteration, restoration, construction, removal, relocation, or demolition shall be granted while a nominated property or property within a nominated district is under consideration or any appeal related thereto is pending. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the nominating process. Permits may be issued to mitigate an immediate threat to the public health, safety, and welfare.~~

~~G~~D. ~~Findings~~ Nomination Hearing~~:~~: At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty five (45) days from the date set for the initial public hearing, the commission shall nominate~~recommend approval~~, 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~~disapprove the application for the designation of the nominated property or district~~. The decision of the commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the decision, and such decision shall be filed with the director. If the commission fails to take action on the ~~application for the nominated resource~~matter within the allotted forty five (45) days~~ time period~~, ~~the application for such designation shall be deemed disapproved~~ 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~~such disapproval~~. Upon the commission's rendering of a decision regarding nomination of a property or district, the director shall give written notification to the owner(s) of the subject property or owners of all properties in the proposed district.

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~~H~~E. ~~Recommendation Or Action~~ 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~~action or recommendation on the criteria, considerations and assessment of integrity and significance outlined in this article~~. ~~If it~~ If nominating a property for designation as a landmark, ~~recommends listing the nominated property or district on the local register as a landmark,~~ the commission shall specify the significant elements or character defining features of the ~~nominated historic resource~~property. ~~In the case of a recommendation for listing of a historic district on the local register,~~ If nominating a historic district, the commission shall identify all contributing properties in the proposed~~that contribute to the area's designation as a~~ district ~~(contributing properties)~~ along with the buildings, structures, ~~and~~ objects, and character defining features located on each~~, and all character defining features~~. Properties, buildings, structures, and objects~~, features and other resources~~ that happen to be located within ~~the~~ a proposed district~~,~~ but ~~that~~ are otherwise unrelated~~have no relevance~~ to the area's ~~identified~~ period of significance~~, significant physical features,~~ or identifying historic characteristics~~,~~ shall be deemed noncontributing properties.

~~Decisions of the commission to disapprove nominations shall be in writing setting forth the basis for rejection.~~ Only an owner of property subject to the designation proceedings shall have the authority to appeal 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.

F. Appropriateness Or Economic Hardship Considerations: Whenever the owner of a proposed landmark or contributing property in a proposed historic district contends that the property would be eligible for a certificate of appropriateness or a certificate of economic hardship in a separate proceeding under section 10-3-3219 or section 10-3-3220 of this article, the owner may request that the commission consider issuing such a certificate at the nomination hearing based on such facts as the owner may present at or prior to the hearing. Upon receiving such a request, the commission may order a peer review as set forth in section 10-3-3220.A. of this article, and the owner shall pay any required fee for the peer review and agree to a reasonable extension of the deadlines set forth in this section for the commission to consider the facts presented by the owner and the results of the peer review. In such circumstances, if the commission determines that the property otherwise merits nomination for designation, it shall also determine whether or not to issue the requested certificate of appropriateness or economic hardship

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~~I~~G. Hearing And Decision By The City Council: The city council shall consider the matter ~~as soon as practicable~~ within thirty (30) days after receiving the commission's ~~recommendation~~ nomination of a property or area for designation, or after receiving a timely appeal of a commission's decision ~~rejecting the proposed nomination~~not to nominate, or after timely voting by the council to call up such a decision. The city council by written resolution may approve, reject, or give modified approval to ~~an application~~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 ~~for the designation of a nominated property or district~~. If the city council approves a nomination, or rejects a commission decision not to nominate, then the subject

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property(ies) shall be designated as a landmark or historic district, as the case may be, and ~~T~~the city clerk shall ~~then~~ notify the owner(s) of the ~~property~~ landmark, or the owners of the property~~ies~~ in the historic district, of the city council's action. If the city council fails to take action on the matter within the thirty (30) day time period to act, 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.

~~J~~H. Historic ~~Resource~~ Property Resolution: The resolution designating a landmark~~,~~ or~~historic district, or contributing property within a~~ 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 list of the contributing properties;

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

~~1~~4. A description of the particular ~~characteristics~~ attributes that justify the designation and a list of the character defining features that ~~which~~ should ~~therefore~~ be preserved;

~~2~~5. The reasons for designation; and

~~3~~6. A set of general guidelines to establish standards for future proposed changes~~; and~~.

~~4. Delineation of the location and boundaries of the designated resource or resources.~~

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~~K~~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 ~~the~~ 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, ~~or~~ 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. From and after the adoption by the city council of a resolution designating the property(ies) a local landmark or historic district, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of

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the property, or of contributing properties within historic districts, is subject to the provisions of this article. The owner(s) of such property(ies) shall maintain and preserve the historic resource at such a level that it does not become a safety hazard to the occupants or to the public.

~~L~~K. Effect Of Non-Designation~~Disapproval Of Nominated Resource:~~: When~~ever~~ 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 ~~an application for designation of a property or properties as a landmark or district, respectively, has been rejected by the commission or by the city council,~~ no application 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~~that contains the same or substantially the same information as the one disapproved shall be resubmitted to or reconsidered by the commission within~~ for a period of five (5) years from the effective date of the final action on the prior application. ~~However, if significant new information is made available and provided by and at the expense of the owner(s), the director may waive the time limit and permit a new application to be filed.~~ When designation proceedings initiated by the commission or the city council result in a non-designation of a proposed landmark, then the city shall be barred from initiating further designation proceedings concerning the same property, in whole or in part, for a period of ten (10) years.

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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.

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M. ~~Disapproval Of Deletion Of A Listed Resource: Where an application for repeal of a listed historic resource from the local register has been denied,~~ 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 ~~listed resource~~property(ies) from the local register may be filed or submitted for a period of ~~one~~ two (2) years from the effective date of the denial.

N. Extensions 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.

~~N. Effect Of Designation: Upon designation, and thereafter, the provisions of this article shall apply to the designated property, historic district, and properties within the historic district. From and~~

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~~after the adoption by the city council of a resolution designating the property(ies) a local landmark or historic district, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of the property, or of contributing properties within historic districts, is subject to the provisions of this article. The owner(s) of such property(ies) shall maintain and preserve the historic resource at such a level that it does not become a safety hazard to the occupants or to the public.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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. ~~The~~ ~~E~~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 ~~that~~ material procedural errors were made during the designation ~~process~~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.

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Changes of use, differences of opinion of subsequent city councils, desires of property owners, or general financial considerations are not sufficient reasons to repeal a designation. The repeal of a landmark or historic district may be initiated by the commission, the city council, or an owner of the subject property. The city council ~~must~~ shall consider an application for repeal of a previously designated landmark or historic district utilizing the same ~~procedures~~ proceedings for designation ~~as provided by~~set forth in section 10-3-3215 of this article. If ~~the determination of~~a landmark or historic district ~~status~~ designation is repealed, the city's register of historic properties shall be updated accordingly. (Ord. 12-O-2617, eff. 2-24-2012)

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

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Upon initiation of designation proceedings by the city council or the commission, or upon a determination by the commission that an application submitted by the owner(s) of a subject property merits formal consideration for nomination, any alteration, restoration, reconstruction, relocation,

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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. ~~Upon the determination by the director that an owner's application for landmark or historic district designation is substantively complete, or upon initiation by the city council or the commission, no permit shall be issued and no work shall be performed on the property or properties pursuant to subsection 10-3-3215F, "Interim Protection Measures", of this chapter pending final determination on whether the property or properties, respectively, shall be designated as a landmark or a historic district. No building or demolition permit shall be issued for a proposed landmark or for any eligible contributing property identified in a proposed historic district, until a final determination has been made regarding designation.~~

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

~~If the commission or city council determines, in a final decision, that the property or properties proposed to be designated does not or do not meet the evaluation criteria for landmark or historic district designation set forth in section 10-3-3212 or 10-3-3213 of this chapter, then the temporary prohibition on the issuance of a permit to demolish, alter, or relocate the nominated property or nominated contributing property within a nominated historic district shall terminate.~~ (Ord. 12-O-2617, eff. 2-24-2012)

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

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on the local inventory, or that is at least forty five (45) years or older and was designed by a person ~~listed~~ 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 this chapter, shall be subject to a thirty (30) day holding period prior to the issuance of any permits. Permit applications may be processed, but no final action shall be taken until after the thirty (30) day period has ended. The director may waive the thirty (30) day holding period if the director determines that the subject property is not an eligible property~~for listing on the local register~~, or that the proposed work would not alter any character defining features~~,~~ or ~~that the work~~ would comply with the ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~. Work proposed on historic properties and properties within historic districts ~~locally designated landmarks, historic districts, and properties within a historic district is subject to the provisions of this article and~~ may require a certificate of appropriateness pursuant to section 10-3-3219 of this article.

A. 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 within one hundred and twenty (120) days of the enactment of this article. Until such time as the list of master architects is compiled, but in no event after the expiration of that one hundred and twenty (120) day period, the city shall use a list of master architects maintained by the previous cultural heritage commission for purposes of applying this section and section 10-3-3215.A.2.a, of this article. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3219: CERTIFICATE OF APPROPRIATENESS:

~~A. Certificate Of Appropriateness Required; Designated Landmarks And Contributing Properties:~~ No person, owner, or other entity shall alter, restore, reconstruct, relocate, rehabilitate, ~~alter, develop, construct,~~ stabilize, demolish, ~~remove,~~ or change the exterior appearance of a designated landmark or contributing property ~~within a designated local historic district~~ without first having applied for and been granted a certificate of appropriateness or certificate of economic hardship ~~exemption~~, unless the work proposed qualifies as ~~"~~ordinary maintenance and repair~~"~~ as defined in this article. Furthermore, a certificate of appropriateness or certificate of economic hardship ~~exemption~~ may be required for alterations, demolition, new construction, and exterior changes in appearance of noncontributing properties in a 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 ~~Exemption~~: A certificate of appropriateness shall not be required for ordinary maintenance and repair of a designated landmark or property within a historic district. Ordinary maintenance and repair shall mean work on a landmark property or property within a historic district that meets all of the following conditions:

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

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

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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 ~~or demolition~~ work proposed on a noncontributing propert~~ies~~y shall be reviewed to assure that the scale, massing, materials, and design of the work is ~~undertaken in a manner that does not impair the essential form and~~ compatible with~~integrity of the historic character of~~ the district.

~~1.~~ Unless otherwise ~~exempt~~ set forth in ~~pursuant to~~ this article, a certificate of appropriateness shall be required prior to issuance of a permit for the following activities involving noncontributing properties:

~~a. Demolition of any building, structure, or object;~~

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

~~c~~2. Remodeling and additions visible from the public right of way~~, including increases in the number of stories~~.

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 ~~or his or her designee~~ for work ~~described in this subsection~~ that meets the following conditions:

1. Requires a permit, and

2. Does not involve a change of design, material, appearance, or ~~a change in~~ visibility of the character defining features ~~or overall significance~~ of a designated landmark or property within a historic district.

All proposed work on a landmark or contributing property shall comply with the ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~. 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 ~~the property's~~ character defining features, and ~~overall historical significance~~a)~~,~~ ~~and~~with respect to landmarks and contributing properties, ~~does not have the potential~~ would comply ~~for a discrepancy between the proposed work and~~ with the ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~; or b) with respect to noncontributing properties, would comply with the standards set forth in subsection C of this section, ~~,~~ then the director shall ~~approve~~ issue the certificate of appropriateness.

If the director determines that the proposed work ~~may~~ might result in a significant change of design, material, appearance or visibility of ~~the property's~~ character defining features, or ~~and overall historical significance,~~a) ~~or~~ with respect to landmarks or contributing properties, might not comply with ~~has the potential for a discrepancy between the proposed work and~~ the ~~"S~~secretary ~~O~~of ~~T~~the

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~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~,; 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 ~~the property's~~ character defining features, or ~~and overall historical significance,~~a) with respect to landmarks or contributing properties, ~~or~~ would not comply with~~create a discrepancy between the proposed work and~~ the "~~S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~,; 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 ~~certificate of appropriateness~~ 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 ~~accurate~~ 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 ~~correct~~ 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 ~~to the designated resource.~~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~~.~~;

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k. Removal of additions ~~intended~~ 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 ~~a~~ the public ~~street or any property at street level~~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 adjacent properties.~~; 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 ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~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 ~~shall~~ may be required as specified in the city's administrative guidelines.

Upon receipt of a complete application, the commission shall ~~act on~~ issue or decline to issue the certificate of appropriateness within ~~seventy-five (75)~~sixty (60) days. The time limits in this section shall be extended by the director when necessary to comply with the provisions of CEQA, ~~or~~ with the written consent of the owner, 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 ~~mailing~~ written notice sent via certified mail, return receipt requested, to the owner or owner's designated representative at least ~~ten (10)~~fifteen (15) days prior to the date of the hearing. ~~Notice to the owner or the owner's representative shall be sent via certified mail, return receipt requested.~~

The applicant for a certificate of appropriateness may submit such evidence to the commission as it deems appropriate at or prior to the hearing~~make submissions to the community development department of any or all relevant information~~. At the hearing, the commission shall consider ~~Based on~~ this and any other relevant information, as well as~~the commission shall take into consideration~~ 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 ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~; or

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2. Does not demonstrate strict compliance with the "Ssecretary Oof Tthe Iinterior's Sstandards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings", but nonetheless protects and preserves the historic and architectural qualities and the character defining features that make the property of a landmark or contributing property; or

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

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

(Ord. 12-O-2617, eff. 2-24-2012)

F. Extensions 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. Such a request shall be made in writing or on the record at a noticed hearing.10-3-3220: CERTIFICATE OF APPROPRIATENESS TERM, EXTENSION, MODIFICATION:

A. Term:

1G. General: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.

2. Certificate Of Appropriateness For Demolition: A certificate of appropriateness for the demolition of a property shall expire at the end of one hundred eighty (180) days from the date of issuance of the certificate of appropriateness, unless a demolition permit or a building permit for the demolition work has been obtained and the rights of the permit or certificate are being exercised and pursued to completion. For purposes of this 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.

B. Extensions:

1H. General:Extensions of Certificates: Except as provided below for certificates of appropriateness authorizing demolition, Sso long as the approved plans have not been modified, a certificate of

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appropriateness may be extended for a period of up to an additional twelve (12) months upon request by the owner and submittal of an appropriate application and payment of applicable fees. The director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the city's administrative guidelines.

~~2. Demolition: A certificate of appropriateness for the demolition of a property may be extended for a period of up to an additional forty five (45) days upon request by the owner and submittal of an appropriate application and payment of applicable fees no later than thirty (30) days prior to expiration. The director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the city's administrative guidelines.~~

~~C~~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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-322~~4~~0: CERTIFICATE OF ECONOMIC HARDSHIP:

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~~A. Issuance:~~ The commission may issue a certificate of economic hardship to allow demolition, alteration, ~~demolition,~~ or relocation of a designated landmark or contributing property ~~within a historic district~~ when it finds~~has been demonstrated~~ that denial of an enabling certificate of appropriateness would cause~~create an~~ undue economic hardship ~~upon~~ 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.

~~B~~A. Applications: ~~An application for a certificate of economic hardship shall be made on the prescribed form~~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 a qualified historic preservation consultant selected by the city, of the information submitted by the applicant. ~~and~~ The application shall ~~be accompanied by~~also include the following information ~~as requested by the director~~:

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

2. The estimated market value of the property after completion of the proposed demolition, alteration, or relocation ~~or demolition~~.

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3. The Estimate~~sd of the~~ costs of the proposed demolition, alteration, or relocation~~demolition~~.

~~4. In the case of demolition, the estimated market value of the property after rehabilitation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structures on the property.~~

~~5~~4. A ~~rehabilitation~~ report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

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.

~~6~~8. For income producing properties located outside of areas of the city zoned for one-family development, information ~~on~~ regarding annual gross income, operating and maintenance expenses, tax deductions for depreciation, ~~and~~ annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.

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.

~~7. The remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.~~

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

~~9. The amount paid for the property if purchased within the previous thirty six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.~~

~~10. Any listing of the property for sale or rent, and prices asked, and offers received, if any within the previous two (2) years.~~

~~11~~10. Any other information the director may reasonably require in order to determine ~~whether or not~~ the present market value of the property, including but not limited to: ~~does or may yield a reasonable return to the owner.~~

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;

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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.

~~C~~B. Public Hearing: Once the director determines that an application for a certificate of economic hardship and any applicable peer review thereof are complete, the director shall schedule ~~The commission shall hold~~ a public hearing before the commission concerning the application to occur within sixty (60) days, at which the commission~~on all applications for a certificate of economic hardship; after which it~~ may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a certificate of appropriateness. 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.

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

1. ~~Denial of the application would decrease the value of the subject property so as to leave no substantial value~~ 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. ~~Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.~~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.

~~3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.~~

~~4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.~~

D. 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.

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~~E~~E. 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.

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

G. 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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3221: CERTIFICATE OF EXEMPTION:

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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. Administrative Procedure: A request for a certificate of exemption 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, a historic assessment report as required by the director, and payment of applicable fees to process the application and fund a peer review, by a qualified historic preservation consultant selected by the city, of the information submitted by the applicant. 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 inform the applicant in writing of the missing information. Within thirty (30) days after the submittal of the missing information, the director shall 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.

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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 report 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 exemption; 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 report on the subject property within the allotted thirty (30) days, such failure will be deemed a finding of non-eligibility, and the director shall issue the requested certificate of exemption without further delay.

B. Appeals: If the director declines to issue a requested certificate of exemption, the property owner may appeal the director's decision to the commission. Any such appeal shall be made in writing and shall set forth all of the facts that the property owner believes establish that the director's decision was erroneous. Thereafter, 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 the appeal is filed, the director shall schedule

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another meeting to occur within thirty (30) days after the appeal is filed at which the commission shall hear the appeal. 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 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.

C. Effect Of Issuance of Certificate: Issuance of a certificate of exemption bars the commission or the city council from initiating landmark designation proceedings concerning the subject property for a period of ten (10) years.

D. Effect Of Non-Issuance: A final determination not to issue a certificate of exemption bars the owner of the subject property, and any successor in interest, from filing another application for a certificate of exemption concerning the same property for a period of five (5) years. Any such final determination may also serve as a basis for the director to list the subject property on the local inventory.

E. 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. (Ord. ?, eff. ?)

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

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A. Authority To Appeal Decisions: Only the ~~owner of the property subject to~~ applicant for a certificate of appropriateness, ~~or~~ certificate of economic hardship, or certificate of exemption, or an owner of another property within a historic district in which the property that is the subject ~~to a certificate~~ of the application~~appropriateness or certificate of hardship~~ is located, shall be entitled to file an appeal of a decision ~~on~~ regarding the certificate pursuant to title 1, chapter 4, article 1 of this code. The city council shall have the authority to call 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 ~~on~~ regarding a certificate of appropriateness, ~~or~~ certificate of economic hardship, or certificate of exemption under this article shall become final if no appeal is submitted within the applicable appeal period and the decision is not called for review by the city council pursuant to the provisions of title 1, chapter 4, article 2 of this code.

C. Appeal Of Director Actions: A~~ppeals of a~~ final decision by the director pursuant to this article may be appealed to the commission within fifteen (15) days from the date of the decision pursuant to the procedures set forth in title 1, article 4, chapter 2 of this code.

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D. Appeal Of Commission Actions: A~~ppeals of a~~ final decision by the commission pursuant to section 10-3-3219 or section 103-3220 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 ~~2~~1 of this code.~~,~~ ~~or~~ A final decision by the commission pursuant to any section of this article may be called for city council review pursuant to the provisions of title 1, chapter 4, article 2 of this code. The city council shall act within ~~ninety~~ thirty (~~9~~30) days after ~~expiration of the appeal period~~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 ~~application~~ appeal and approval of the commission's decision. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3223: HISTORIC ~~RESOURCE~~ 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, ~~and includes~~ 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~~,~~ ; ~~and~~ 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 ~~finds and~~ obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

B. If ~~real~~ a property has been designated by the city of Beverly Hills as a landmark, is a property within a designated historic district, ~~or has been identified~~is listed on ~~in~~ the local inventory, or

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was designed by a person identified on the list of master architects~~any update thereto~~, the owner or the selling agent of the property shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property's historic or potentially historic status. The owner or the selling agent shall provide the notice 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 ~~and in any event before~~ the transfer of title to occur.

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.

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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. (Ord. 12-O-2617, eff. 2-24-2012)

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

Notwithstanding anything else set forth in this article, any ~~property that is~~ designated ~~a~~ landmark ~~on the local register and~~ the renovation of which is required by legislati~~ve~~on enact~~mented~~ by the city of Beverly Hills ~~adopted~~ 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 ~~subsection 10-3-3215F and~~ 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 ~~historic resource~~ resolution~~,~~ adopted under~~as set forth in~~ subsection 10-3-~~3215J~~ 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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3225: ENFORCEMENT AND PENALTIES:

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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.

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B. In addition to all other remedies available to the city, any alteration, relocation, or demolition of a landmark or contributing property~~historic resource~~ in violation of this article is expressly declared to be a nuisance and may be abated as deemed appropriate by the city.

C. In addition to all other remedies, the city shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed sixty (60) months from the date the city becomes aware of any alteration, 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 ~~"S~~secretary ~~O~~of ~~T~~the ~~I~~interior's ~~S~~standards ~~For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"~~. The purpose of the moratorium is to provide the city an opportunity to study and determine appropriate mitigation measures for the alteration, relocation, or demolition ~~and/or removal~~ of the historic ~~resource~~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 ~~and/or director~~ shall be imposed as a condition of any subsequent permit for development of the subject property.

D. The city attorney may maintain an action for injunctive relief to restrain a violation, or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any part of a historic property~~resource~~ demolished, partially demolished, altered, ~~or~~ partially altered, relocated, or partly relocated in violation of this chapter.

E. Any person who ~~constructs,~~ demolishes, alters, ~~removes~~relocates, rehabilitates, stabilizes, or reconstructs ~~or demolishes~~ a designated landmark or property in a designated historic district without the approval and issuance of a certificate required to be ~~or permit~~ issued pursuant to this article may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.

F. In addition to any other remedies provided herein, any violation of this article may be enforced by civil action brought by the city. Remedies under this article are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the city may seek as appropriate, one or both of the following remedies:

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. (Ord. 12-O-2617, eff. 2-24-2012)

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10-3-3226: PREEXISTING 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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3227: FEES:

The city council may, by resolution, establish the fee(s) for an application to initiate~~submission of a~~ nomination proceedings, and all other applications and submissions made pursuant to this chapter. (Ord. 12-O-2617, eff. 2-24-2012)

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. (Ord. 76-O-1608, eff. 6-17-1976; and. Ord. 94-O-2206, eff. 8-5-1994).

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10-3-322~~8~~9: 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.

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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. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-32~~29~~30: 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 ~~of bodily harm or of damage to~~ adjacent property, and further that~~. The building official shall notify the director in writing of a finding that~~ the proposed action is necessary ~~in order~~ to mitigate the unsafe or dangerous condition. In that event, the building official shall immediately notify the director in writing of the situation~~In such event~~, and ~~no certificate of appropriateness or permit referral shall be required. However, the building official~~ shall make ~~all~~ reasonable efforts to consult with the director~~, or his or her designated representative~~ to determine if there are feasible alternatives to the proposed action that will adequately protect ~~the public health and safety~~against the determined threat. Any action taken pursuant to this subsection shall not require a certificate of appropriateness, economic hardship, or exemption. (Ord. 12-O-2617, eff. 2-24-2012)

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

...

B. Any property that the Historic Preservation Commission or the City Council has, at a preliminary hearing held pursuant to section 10-3-3215.A5 of this article, determined merits formal consideration

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by the Historic Preservation 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.

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Attachment 3

Summary of CHC Comments from 11-17-14 and 11-24-14

SUMMARY OF CULTURAL HERITAGE COMMISON COMMENTS

This document provides a summary of Cultural Heritage Commission comments from the CHC public hearings held on November 17, 2014 and November 24, 2014, to be transmitted to the Planning Commission. The full CHC discussions from these meetings can be viewed in the video archive accessible at: http://beverlyhills.granicus.com/ViewPublisher.php?view_id=36

Comments from the Commission pertaining to specific Ordinance provisions

- CHC Commissioners raised concerns with several of the new definitions (§10-3-3202), including:
  - Questioning the source of many of the definitions, which did not appear to align with generally accepted architectural and preservation industry terms
  - Why "archeological site" was removed from definitions
  - Why landscaping, setbacks, windows, and doors were removed from the definition of "character defining features"
  - That the definition of "eligible property" relies on "*prima facie*" (based on the first impression) evidence, when further investigation or research may be needed to make such a determination.
  - The Commission expressed concern with the definition of "exceptional work" for several reasons, including the following components:
    - Major architectural award
    - Electronic work
    - National figures

- Powers and Duties of the Commission (§10-3-3208)
  - The CHC expressed the belief that Commissioners should continue to be required to complete training and continuing education (deleted §10-3-3208R)
  - Commissioner Pynoos expressed her concern with removing the CHC's ability to review "a citywide survey of historic resources" (deleted §10-3-3208C)

- Commissioner Waldow voiced his concern with revising the legislative intent, which was approved by the City Council in the original Ordinance adopted on 1-24-12

- Historic District Designation Criteria
  - Commissioners Waldow and Pynoos stated their opposition to the amendment that removes from the Ordinance the ability to form historic districts in the single family or R-1 zones (§10-3-3213)

- Timeframes Imposed

- The Commission expressed overall support with instituting timeframes to streamline the process for property owners.
- The Commission expressed concerns with the implications of the strict time frames on staff time and resource availability, particularly resulting from the new Certificate of Exemption procedure.
- The CHC highlighted the need to identify to the Planning Commission and City Council what would be required to meet the required timeframes set out in the new Ordinance.
- Commissioner Waldow opposed the provision that the extension of timeframes may only be granted upon the request of the property owner (multiple instances, e.g. §10-3-3215N), expressing his opinion that this unilateral grant of power does not work productively in the public interest.

- *Originally* designed by a Master Architect
  - The Commission expressed a global issue with the language "originally designed" by a Master Architect, raising questions about later renovations or redesigns to a property that might have been the work of a Master Architect.

- Public Noticing requirements
  - The CHC recommended that the City Council consider an enhancement to the Community Development Department budget to purchase the most up-to-date tax assessors information software to ease in providing expedient notice to current property owners.

- Certificate of Exemption
  - The CHC recommended inserting into this section the language used in §10-3-3215A4 regarding meeting scheduling if the next regularly scheduled meeting is set to occur less than ten (10) days or more than thirty (30) days after the application is deemed complete.

- Fiscal and staffing impacts
  - The CHC expressed overall concern with the potential fiscal and staffing impacts of the new Ordinance, not wanting to impose unreasonable costs and timeframes upon the City.

- In-Lieu Parking Waiver (§10-3-3228)
  - The CHC suggested that the PC re-review the eligibility standards for historic properties into the in-lieu parking program, in light of the desire to provide incentives and the recently-adopted incentive Ordinance, BHMC Article 32.5 – Historic Incentive Permit.

- Dangerous and Immediately Dangerous Properties
  - The Commission recommended that the language "or persistent" be struck from proposed §10-3-3230.

- Master Architect definition
  - Based on the dialogue between the CHC and Commissioner Corman at the public hearings, the CHC maintained the need to clarify the definition of "architect" in the Ordinance.
- Electronic work
  - The Commission discussed the direction of the publishing industry moving towards electronic-only format for many mainstream and academic publications. As a result, the CHC suggested that the Planning Commission remove the provision in the definition for Master Architect (§10-3-3202) that "works published in solely electronic form [...] shall not be counted towards [the] minimum."

- Significant persons
  - The CHC expressed concern with the replacement of the "Significant Persons" definition with "Person of Great Importance" (§10-3-3202), not wanting to lose the ability to honor and acknowledge figures important to local history.

Commissioner comments pertaining to the overall Ordinance amendment

Commissioner Rebecca Pynoos stated her serious concerns as she believes that the proposal represents an entirely new ordinance rather than discrete amendments to the existing Historic Preservation Ordinance. She stated that she did not feel it was the best custom crafted option for Beverly Hills, and expressed concern that the new ordinance does not contain federal, state, professionally accepted definitions. She expressed concern with the pace at which the new ordinance is being advanced and did not feel she had sufficient time to review such substantial changes. Lastly, Commissioner Pynoos stated that she could not in good faith uphold the new proposed standards which appeared to have been derived without the consultation of architectural professionals.

Commissioner Noah Furie stated that he had had some initial reservations with the new Ordinance when presented with it originally, as he believed it represented a departure from the original Historic Preservation Ordinance. However, Commission Furie indicated that he felt the changes were workable for the CHC and his support for the Ordinance if the final version incorporated the additional suggestions made by the CHC. Commissioner Furie reiterated his concerns with the definitions of "exceptional work," "Master Architect," and "electronic work."

Commissioner Richard Waldow expressed his support with revamping the Ordinance to the extent that the proposed revisions rectify problems that have been actually observed in the application of the current Ordinance (e.g. timelines). He identified other areas where he believed the new Ordinance reached too far in limiting the ability to protect historic resources in the community (e.g. many of the revised definitions and criteria). He concluded that most people in the community support preservation, but stated his opinion that this new Ordinance was headed in the wrong direction.

Vice Chair Lisa Greer stated that she was in support of an amended Ordinance because she felt that it was necessary at this point in time. She agreed with process improvements such as tightening up timelines but did not see the need to place certain limitation upon the Commission's powers. Vice Chair Greer also expressed the hope that over time the pendulum would swing back in terms of supporting preservation in the community.

Chair Maralee Beck echoed her fellow Commissioners' comments, citing the need to balance necessary amendments to the Preservation Ordinance while leaving in place the meaningful ability to protect and honor the city's heritage.

Attachment 4

Preliminary Assessment of Master Architect List

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	This	AND	OR	OR	OR		
	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
City's Adopted Master Architect List 7-3-12						**YES**	**NO**
Ache, William	X						x
Adams, Charles Gibbs	X	X	X	X	X	x	
Ain, Gregory	X	X	X	X	X	x	
Ain Johnson, and Day	X				X		x
Allison & Allison	X	X	X	X	X	x	
Alperson, Edward							x
Arganbright, C.S.							x
Austin, John C.	X	X	X	X	X	x	
Becket, Welton David	X	X	X	X	X	x	
Beckett, William S.	X		X				x
Black, Eric							x
Bollenbacher							x
Buff, Straub & Hensman	X	X	X	X	X	x	
Burgess, Carleton L.							x
Byers, John			X	X	X		x
Byrd, Robert	X						x
Carpenter Brothers							x
Chambers, H. C.	X		X	X	X		x
Clements, Stiles O.	X	X	X	X	X	x	
Coate, Roland Eli, Sr.	X	X	X		X	x	
Colcord, Gerard	X	X		X	X	x	
Cook, Wilbur C.	X	X		X	X	x	
Cornelius, James	X						x
Curlett, Aleck	X	X		X		x	
Daniel, Mann, Johnson & Mendenhall	X	X	X	X	X	x	
Dentzel, E.P.							x
Derrah, Robert B.	X						x
Dickason, James							x
Dolena, James E.	X				X		x
Dorman, Richard	X		X				x
Douglas Honnold and John Rex	X						x
Dryden, Thomas Nathaniel	X						x

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
Eckbo, Garrett	X	X	X	X	X	x	
Eckbo, Royston & Williams	X	X	X	X	X	x	
Eggers, Henry	X						x
Ehmck, Casper	X						x
Eisenstadt, Sidney	X	X	X	X	X	x	
Ellwood, Craig	X	X	X	X	X	x	
Emmons, Frederick Earl	X		X		X		x
Farquhar, Robert	X			X	X		x
Fickett, Edward H.	X	X	X	X	X	x	
Flewelling, Ralph C.	X		X	X	X		x
Fowler, David	X						x
Froehlich, Arthur	X						x
Froehlich, Arthur & Associates	X						x
Gable and Wyant	X	X	X	X	X	x	
Gage, William J.	X		X		X		x
Garrett Van Pelt	X				X		x
Gehry, Frank O.	X	X	X	X	X	x	
Gibbs, Hugh	X	X	X		X	x	
Gogerty, Henry "Hank" L.	X						x
Greene and Greene	X	X	X	X	X	x	
Greene, Charles Sumner	X	X	X	X	X	x	
Greene, Henry Mather	X	X	X	X	X	x	
Grey, Elmer	X	X	X	X	X	x	
Gruen, Victor David	X	X					x
Gruen Associates	X	X	X			X	
Haines, William (Billy)				X	X		x
Harris, Harwell Hamilton	X		X	X			x
Holmes & Sanborn	X						x
Honnold, Douglas	X		X		X		x
Honnold & Lautner	X		X		X		x
Honnold & Russell	X						x
Houseman Brothers							x
Hudson, W. Asa	X						x
Hunt, Myron	X	X	X	X	X	x	

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
Hunt, Sumner P.	X				X		x
Hunter, Paul R.	X						x
Hillock, J.H.							x
Hillock & Son							x
Johnson, Kaufmann, & Coate Architects	X	X		X	X	x	
Johnson, Reginald Davis	X				X		x
Jones, Archibald Quincy	X	X	X	X	X	x	
Jones and Emmons	X			X	X		x
Kaufmann, Gordon Bernie	X	X	X	X	X	x	
Kelley, H. Roy	X				X		x
Kelly, Arthur	X	X	X		X	x	
Kennedy, Frederick Jr.							x
King, Richard Douglas	X		X				x
Kieffer, Ray J.	X				X		x
Koerner & Gage	X				X		x
Kolyar, Clinton B.							x
Krisel, William	X	X	X	X	X	x	
Ladd & Kelsey Architects	X				X		x
Laszlo, Paul	X			X	X		x
Lautner, John	X	X	X	X	X	x	
Lee, S. Charles	X	X	X	X	X	x	
Levitt, Harold	X				X		x
Lincoln Mortgage							x
Lind, George Julius	X						x
Lotery, Rex	X	X	X			x	
Luckman, Charles	X	X	X	X	X	x	
Lumsden, Anthony	X		X	X			x
Lundberg, Armet & Davis	X	X	X	X	X	x	
Lustig, Alvin				X	X		x
M. Burgbacher and Sons							x
MacLean, George	X						x
Marston & Maybury	X	X		X	X	x	
Marston & Van Pelt	X	X		X	X	x	
Marston, Van Pelt & Maybury	X	X		X	X	x	

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
Parkinson Donald	X	X	X		X	x	
Marston, Carl	X				X		x
Marston, Keith Palmer	X						x
Marston, Sylvanus Boardman	X	X		X	X	x	
Martin, Albert C. Sr.	X	X	X	X	X	x	
Marx, Samuel	X			X	X		x
May, Cliff	X	X	X	X	X	x	
Maybury, Edgar W.	X				X		x
McCarty, Walter G.					X		x
Meier, Richard	X	X	X	X	X	x	
Richard Meier & Partners	X	X	X		X	x	
Meyer & Holler	X	X		X	X	x	
Milwaukee Building Co.	X	X		X	X	x	
Moore, Charles Willard	X	X		X		x	
Morgan, Julia	X	X	X	X	X	x	
Morgan, Walls, & Clements	X	X	X		X	x	
Morgridge, Howard Henry	X						x
Muir, Edla	X				X		x
Neff, Wallace	X	X	X	X	X	x	
Neutra, Richard Joseph	X	X	X	X	X	x	
Nomland, Kemper	X						x
Nordstrom and Anderson	X						x
Oliver, Henry					X		x
Pacific-Ready Cut Homes, Inc.	X			X	X		x
Parker, Max							x
Parkinson Donald	X	X			X	x	
Parkinson, John	X	X	X	X	X	x	
Parkinson & Parkinson	X	X	X	X	X	x	
Peck and Canfield	X						x
Pei, I.M.	X	X	X	X	X	x	
Pereira and Luckman	X	X	X	X	X	x	
Pereira, William L.	X	X	X	X	X	x	
Pillsbury, A.C.					X		x
Polsky, Donald P.	X		X				x

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
Price, Roy Seldon	X	X			X	x	
Priteca, B. Marcus	X	X	X		X	x	
Rex, John	X				X		x
Reisbord, Samuel	X						x
Riesenberg, Herbert	X						x
Riverre, Rene							x
Rothenberg, Albert							x
Russell, H. Vernon							x
Salisbury, Bradshaw & Taylor					X		x
Schindler, Rudolph M.	X	X	X	X	X	x	
Schutt, Burton A.					X		x
Sheets, Millard			X	X	X		x
Siple, Allen	X				X		x
Skidmore, Owings & Merrill	X	X	X	X	X	x	
Skinner, Robert	X						x
Smith & Williams	X	X	X	X	X		x
Smith, Louis A.							x
Stanberry, F.E.							x
Starkman, Maxwell	X						x
Staunton, William F. Jr.	X	X			X		x
Stephenson, William							x
Stone, Edward D.	X	X	X		X	x	
Stone, Hicks							x
Taylor, Edward Cray							x
Taylor, Ellis Wing							x
Taylor & Taylor							x
Taylor, Arthur							x
Thiene, Paul	X	X	X	X	X	x	
Trousdale, Paul			X	X	X		x
Van Pelt, Garrett Beekman, Jr.	X				X		x
Van Pelt & Lind, Architects	X				X		x
Verge, Gene							x
Waldo, M.							x
Walker & Eisen	X	X	X		X	x	

Current Master Architect List - Initial Evaluation Under Proposed New Master Architect Criteria (10-28-14)

	An architect...	...of recognized greatness in the field of architecture	Won a major architectural award[1]	His or her work is the subject of a published monograph on his/her career	His/her work is substantively discussed (not simply mentioned) and photographically depicted in at least 3 published scholarly works[2]	Satisfies new Master Architect criteria?	
Walker, Rodney	X	X		X	X	x	
Walter and Pierpont Davis	X	X			X	x	
Webber, Staunton, & Spaulding	X	X			X	x	
Werner, Harry E.							x
Weyl, Carl Jules	X				X		x
Wilkinson, Marshall							x
Williams, Paul Revere	X	X	X	X	X	x	
Winslow, Carleton							x
Wong, Gin Dan	X	X			X	x	
Woolf, John Elgin				X	X		x
Woolf, John Elgin & Robert Koch				X	X		x
Wright, Frank Lloyd	X	X	X	X	X	x	
Wright, Lloyd	X	X		X	X	x	
Yoch, Florence	X	X		X	X	x	
						73 yes	**109** no
			[1]A so-called "Global" or "National" award given annually or for a lifetime of achievement to an architect or building by an authoritative body in the architectural field.		[2](e.g., books, treatises, dissertations, or articles on architectural movements or trends) written by experts in the architectural field. Works authored or published by the master architect himself/herself shall not count toward this minimum.		

Attachment 5

Table 1 - Comparison of Landmark Designation Criteria

Table 1. Comparison of Landmark Designation Criteria (BHMC §10-3-3212): Current vs. Proposed Language

Current Ordinance				Proposed Ordinance			
Must satisfy	**Criterion No.**	**Subject**	**Content**	**Criterion No.**	**Subject**	**Content**	**Must satisfy**
At least 2 from A.1 – A.6	**A.1**	Historical Events	Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;	**A.1**	Age and Significance	It is at least forty five (45) years of age, or is a property of extraordinary significance;	ALL
	A.2	Significant Persons	Is directly associated with the lives of significant persons important to national, state, city or local history;	**A.2**	Style	It is a remarkable example of a single, specific architectural style, type, or period;	
	A.3	Style	Embodies the distinctive characteristics of a style, type, period, or method of construction;	**A.3**	Integrity	It retains substantial integrity from its period of significance; and [A.4]	
	A.4	Master Architect	Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;	**A.4**	Historic Value	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.	
	A.5	Historical Information	Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;	**B.1**	On National Register	It is listed on the National Register of Historic Places;	AND at least 1 from B.1 – B.5
	A.6	On National or State Register	Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been determined eligible by the state historical resources commission for listing on the	**B.2**	Master Architect	It is an exceptional work that was originally designed by a master architect;	

Current Ordinance				Proposed Ordinance			
Must satisfy	**Criterion No.**	**Subject**	**Content**	**Criterion No.**	**Subject**	**Content**	**Must satisfy**
			California register of historical resources.				
AND	**B**	Retains Integrity	The property retains integrity from its period of significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection A of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.	**B.3**	Significant Persons	It is an exceptional work that was owned and occupied by a person of great importance for a period of at least five (5) years, 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;	
AND	**C**	Historic Value	The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article.	**B.4**	Iconic	It is an iconic property; or [B.5]	
				B.5	Property owner support	The landmark designation procedure is initiated, or expressly agreed to, by the owner(s) of the property.	