

# Ordinance Fact Sheet

**TO:** CITY COUNCIL

**DATE:** April 13, 2009

**FROM:** CITY ATTORNEY

**SUBJECT:** AMENDMENTS TO THE HISTORIC PRESERVATION PROVISIONS OF THE ZONING CODE

## **TITLE OF PROPOSED ORDINANCE**

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 17 (THE ZONING CODE) TO, AMONG OTHER TECHNICAL AMENDMENTS, GIVE CALL FOR REVIEW AUTHORITY TO THE HISTORIC PRESERVATION COMMISSION, CHANGE THE PROCESS FOR SELECTING MILLS ACT RECIPIENTS, AND REQUIRE INTERIM REGULATORY REVIEWS IN PENDING LANDMARK DISTRICTS**

## **PURPOSE OF ORDINANCE**

This ordinance implements the direction given by the City Council on January 26, 2009, to amend various provisions of the historic preservation portions of the Zoning Code.

## **REASON WHY LEGISLATION IS NEEDED**

This legislation is needed to: (1) maintain consistency throughout the appeal section of the Zoning Code regarding the authority of commissions with particular expertise to call for review those lower decisions within their purview; (2) to provide staff needed flexibility in administering Mills Act contracts when there are more requests than available contracts; (3) to protect nominated landmark districts subsequent to nomination but before adoption; and (4) to make necessary updates to relevant definitions in the Zoning Code.

## **PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED**

The Planning and Development Department will implement the proposed ordinance.

04/27/2009  
MEETING OF 04/13/2009  
AGENDA ITEM NO. 8.B.1.  
8-A-1-

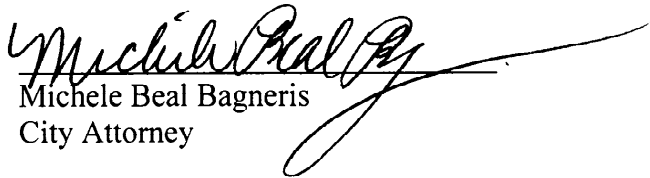
**FISCAL IMPACT**

There is no fiscal impact to implementing the proposed ordinance.

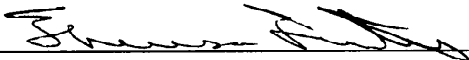
**ENVIRONMENTAL REVIEW**

On January 26, 2009, Council found the proposed amendments to be exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines § 15061, the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

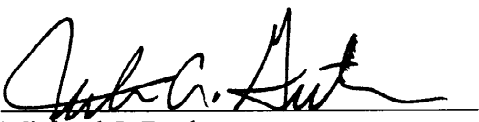
Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney

Prepared by:

  
Theresa E. Fuentes  
Assistant City Attorney

Concurred by:

  
62 Michael J. Beck  
City Manager

0000067362C031

Introduced by: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 17 (THE ZONING CODE) TO, AMONG OTHER TECHNICAL AMENDMENTS, GIVE CALL FOR REVIEW AUTHORITY TO THE HISTORIC PRESERVATION COMMISSION, CHANGE THE PROCESS FOR SELECTING MILLS ACT RECIPIENTS, AND REQUIRE INTERIM REGULATORY REVIEWS IN PENDING LANDMARK DISTRICTS**

The People of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

**“Summary**

“Ordinance No. \_\_\_\_\_ amends various provisions of Title 17 (the Zoning Code) to, among other things: authorize the Historic Preservation Commission to call for review decisions of the Director of Planning & Development; increase the number of annual Historic Property Contracts for multi-family residential, commercial and industrial properties; remove certain provisions of Historic Property Contracts from the Zoning Code; extend interim regulatory reviews in pending landmark districts to all districts under consideration for designation; update definitions related to the Historic Preservation Ordinance; and various technical corrections.

Ordinance No. \_\_\_\_\_ shall take effect 30 days from its publication.”

**SECTION 2.** Pasadena Municipal Code, Title 17, Article 2, Chapter 17.22, Section

17.22.080, Subsection C is amended to read as follows:

**“C. Incentives for the preservation of historic resources.** In developments that preserve historic resources and structures with a California Historical Resources Status Code of 6L (determined ineligible for local listings or designation through local government review process; may warrant special consideration in local planning) or Status Codes of 1 – 5 (properties with a historic designation), a decision may be made through the Design Review process to waive development standards or accept alternative solutions to assist in the preservation of these structures. The decisionmaker may waive or grant up to a 50 percent reduction to the main garden (and thereby accordingly reduce the total garden requirement), waive some or all of the required architectural elements and modulation requirements, if such action is reasonably necessary to accommodate such preservation. The total garden requirement may not be reduced by more than the amount of square footage reduction of the main garden.”

**SECTION 3.** Pasadena Municipal Code, Title 17, Article 2, Chapter 17.28 Section 17.28.100, Subsection E, Paragraph 1 is amended to read as follows:

“1. Any modifications to the exterior of the structure shall be subject to review and approval in accordance with category 1 review procedures outlined in Section 17.62.090.E.1.”

**SECTION 4.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.60.030, **Table 6-1 – REVIEW AUTHORITY** is amended as shown in Exhibit - 1 attached hereto and incorporated by this reference.

**SECTION 5.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.020, **Table 6-5 – REVIEW AUTHORITIES – POWERS AND DUTIES** is amended as

shown in Exhibit - 2 attached hereto and incorporated by this reference.

**SECTION 6.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.030 is amended by adding new paragraph 9, as follows:

“9. For major projects requiring a Certificate of Appropriateness and design review, the Director or Design Commission, according to the design review thresholds in Table 6-2 or Table 6-3, shall be the review authority. The Historic Preservation Commission shall make a recommendation to the design review authority, based on compliance of the project with the Secretary’s Standards.”

**SECTION 7.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.040, Subsection A is amended as follows:

“**A. Evaluation of Historic Resources.** When considering applications to designate a historic monument, landmark, historic sign, landmark tree or landmark district, the Historic Preservation Commission shall apply the criteria below according to applicable National Register of Historic Places Bulletins for evaluating historic properties, including the seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association (National Register of Historic Places Bulletin #15: “How to Apply the National Register Criteria for Evaluation”).”

**SECTION 8.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.040, Subsection F, is amended by adding the following new paragraph:

“2. When determining the boundaries of a landmark district, the Historic Preservation Commission shall use the National Register of Historic Places Bulletin #21: “Defining Boundaries for National Register Properties.””

**SECTION 9.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.050, Subsection D, paragraph 1 is amended to read as follows:

“1. After the Historic Preservation Commission issues a recommendation for approval of an application for designation of a historic monument, landmark, or landmark district, no person, owner, or other entity shall undertake a major project without first obtaining approval in compliance with the category 1 review procedures in Section. 17.62.090. These interim provisions shall apply only to contributing properties and structures as determined by the Director.”

**SECTION 10.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.070, Subsection C, Paragraph 2, is amended as follows:

“2. The Historic Preservation Commission’s recommendation for approval shall be based on the finding that the landmark district meets the criteria for designation as specified in Section 17.62.040(F) above.”

**SECTION 11.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.090, Subsection E, Paragraph 2, Subparagraphs c & h are amended to read as follows:

“**c. Determination of alteration or new construction as a significant adverse effect.** If the work is not part of a project that requires another discretionary action and the historic resource meets the criteria for one of the above designations or listings or has a 2, 3, 4 or 5S2 status code in a historic resources survey, the Director shall determine if the proposed major project constitutes.” (The remainder of this paragraph remains the same.)

“**h. Demolition project.** If a project involves a demolition of a historic resource determined

eligible for designation with a 2, 3, 4, 5S2, or 5D2 status code as defined by the State Office of Historic Preservation's Historical Resources Status Codes, the Historic Preservation Commission shall review the application at a public hearing noticed and conducted in compliance with Chapter 17.76 (Public Hearings).”

**SECTION 12.** Pasadena Municipal Code, Title 17, Article 6, Chapter 17.62, Section 17.62.130, Subsection B, Paragraph 4, is amended as follows:

a. By amending Subparagraph b, Number (2) as follows:

“(2) In furtherance of this policy, Historic Property Contracts shall be limited to a maximum of 20 single-family residential properties each year and six multi-family residential, commercial, or industrial properties each year, unless the Council approves additional contracts beyond these limits.”

b. By removing Subparagraph d and replacing it with the following:

“d. **Administrative Guidelines.** The City Manager, or designee, shall issue administrative guidelines for implementation of the Historic Property Contract process.”

c. By removing Subparagraph e.

**SECTION 13.** Pasadena Municipal Code, Title 17, Article 7, Chapter 17.72, Section 17.72.020, Subsection B is amended as follows:

“B. Historic Preservation Commission. The Historic Preservation Commission shall serve as the review authority for decisions of the Director in compliance with Chapter 17.62 (Historic Preservation).”

**SECTION 14.** Pasadena Municipal Code, Title 17, Article 7, Chapter 17.72, Section

17.72.060, Subsection a, is amended by adding new Paragraph 1, as follows, and renumbering the subsequent paragraphs in the proper numerical sequence:

**“1. Historic Preservation Commission’s review.**

**a. Review.** The Historic Preservation Commission may choose to Call for Review a decision by the Director regarding the Director’s action on Historic Preservation applications in compliance with Chapter 17.62, including applications for Certificate of Appropriateness, Relief from the Replacement Building Permit Requirements, demolition/alteration of a historic resource without a permit and disapproval of applications for designation of historic properties and districts.

**b. Decision final.** The decision of the Historic Preservation Commission shall be final unless Called for Review by the Council or an appeal is filed in compliance with this Chapter.”

**SECTION 15.** Pasadena Municipal Code, Title 17, Article 8, Chapter 17.80, Section 17.80.020 is amended by amending the following subdefinitions of “Historic Preservation” as follows:

a. By amending definition 6, Demolition, as follows:

**“6. Demolition.** The complete destruction or removal of a structure or object, removal of more than 50 percent of the perimeter walls, or substantial removal of a structural wall of a street-facing elevation that has an adverse affect on the significance of a property.”

b. By amending definition 16, Landmark District, as follows:

**“16. Landmark District.** A group of properties that meets the criteria of Section 17.62.040.F and is so designated by the City Council.”

c. By amending subdefinition c of definition 20, Project (Major) as follows:



“c. Any addition of square footage to a building elevation that faces a street.”

d. By adding new subdefinition g to definition 20, Project (Major) as follows:

“g. Any addition of a height greater than that of the existing building, if the addition is visible from the street.”

e. By amending subdefinition b of definition 21, Project (Minor), as follows:

“b. Any undertaking requiring a permit that does not change substantially the exterior character-defining features of a historic resource, including re-roofing in a different material that replicates the existing or original roofing, replacement windows and doors matching the design and materials of the existing or original windows and doors (when it is infeasible to repair) and minor additions on secondary elevations and replacement windows and doors on secondary elevations.”

f. By amending subdefinition d of definition 21, Project (Minor), as follows:

“d. In designated districts, demolition and alteration of garages and other accessory structures built within the period of significance on both contributing and noncontributing properties and new construction of such structures on any designated historic property (districts and individual properties).”

g. By amending subdefinition g of definition 21, Project (Minor), as follows:

“g. Substantial alterations to non-contributing buildings.”

h. By adding new subdefinition h of definition 21, Project (Minor), as follows:

“h. For non-contributing buildings that could be rehabilitated to become contributing, minor alterations including one-story rear additions, replacement windows and doors, replacement garage doors, new siding or wall cladding or new dormers are considered minor projects. For

non-contributing buildings built outside the period of significance of the district, these types of projects are exempt from review.”

**SECTION 16.** The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

**SECTION 17.** This ordinance shall take effect 30 days from its publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

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Mark Jomsky  
City Clerk

Approved as to form:

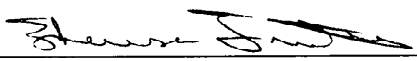
  
\_\_\_\_\_  
Theresa E. Fuentes  
Assistant City Attorney

EXHIBIT 1

TABLE 6-1 - REVIEW AUTHORITY

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/ Hearing Officer	DC/HPC (2)	BZA/Planning Commission (2)	City Council

**Administrative and Amendments**

General Plan amendments	17.74			Recommend	Decision
Interpretations	17.12	Decision (3)		(BZA) Appeal	CFR
Master Plans	17.61.050			Recommend	Decision
Planned Developments	<del>17.74</del> 17.26.020 C			Recommend	Decision
Specific Plans	17.68			Recommend	Decision
Zoning Code amendments	17.74			Recommend	Decision
Zoning Map amendments	17.74			Recommend	Decision

**Land Use Permits and other Development Approvals**

Adjustment Permits	17.61.070			Recommend	Decision
Certificate of Appropriateness	17.62.090	Decision (4)	(HPC) Decision/ Appeal/CFR		Appeal/ CFR
Central District – Floor Area Increase	17.30.050			Decision	Appeal/ CFR
Central District – Height Averaging	17.30.050		(DC) Decision		Appeal/ CFR
Code Compliance Certificates	17.61.020	Issued by Director			
Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)
Creative Sign Permits	17.48.070	Decision	(DC) Appeal/CFR		Appeal/ CFR
Density Bonus – Concessions and other Incentives	17.43.050	(HO) Decision		(BZA) Appeal	Appeal/CFR (5)

Density Bonus – Waiver of Development Standards	17.43.060	(HO) Decision		(BZA) Appeal	Appeal/CFR (5)
Design Review (See Tables 6-2 & 6-3)	17.61.030	Decision	(DC) Decision/ Appeal/CFR		Appeal/ CFR

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/ Hearing Officer	DC/HPC (2)	BZA/Planning Commission (2)	City Council

**Land Use Permits and other Development Approvals (Continued)**

Development Agreements	17.66			Recommend	Decision
Expressive Use Permits	17.61.060	(HO) Decision (3)			Appeal/ CFR
Long-term Film Permits	17.61.090	(HO) Decision		(BZA) Appeal	Appeal/CFR
Hillside Development Permit	17.29.010	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)
Lot Line Adjustments	Title 16	Advisory Agency (HO) Decisions		(BZA) Appeal	Appeal
Master Sign Plans	17.48.060	Decision	(DC) Appeal/CFR		Appeal/ CFR
Minor Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)
Minor Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)
Modifications for Persons with Disabilities	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)
Public Art Requirement	17.61.100	(AC) Decision (2)			Appeal/CFR
Sexually Oriented Business Hardship Extension	17.50.295.D	(HO) Decision		(BZA) Appeal	Appeal/CFR (5)
Sign Exceptions	17.48.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)

Temporary Use Permits	17.61.040	(ZA) Decision (3)		(BZA) Appeal	CFR
Tentative Tract and Parcel Maps (Including Vesting Maps)	Title 16	Advisory Agency (HO) Decision		(BZA) Appeal	Appeal/CFR
Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (5)

**Notes:**

- (1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 17.72 (Appeals); and "CFR" means Call for Review, in compliance with Chapter 17.72 (Appeals).
- (2) "DC" means the Design Commission, "HPC" means Historic Preservation Commission, "BZA" means Board of Zoning Appeals and "AC" means Arts and Culture Commission.
- (3) The Hearing Officer may defer action on permit applications and refer the items to the Board of Zoning Appeals (BZA) for the final decision.
- (4) The Director's decision to issue a Certificate of Appropriateness may first be appealed to the Historic Preservation Commission (HPC) and then to the Council.
- (5) Any CEQA document or decision may be appealed to the Council.

EXHIBIT 2

TABLE 6-5

REVIEW AUTHORITIES - POWERS AND DUTIES

Review Authority	Powers and Duties
Director	<p>Approve/disapprove applications for Certificates of Appropriateness for minor projects affecting designated historic resources and approve/delay major projects (except demolition) affecting historic resources eligible for designation; approve/disapprove applications for relief from the replacement Building Permit requirement of insignificant buildings. Conduct preliminary reviews of applications for designation of a historic monument, landmark, landmark tree, or historic sign.</p> <p>Determine if a property is contributing or non-contributing to a historic or landmark district or to a district eligible for designation.</p> <p>For public projects, review minor projects affecting historic resources.</p>
Historic Preservation Commission	<p>Review applications for designations of monuments, landmarks, historic signs, and landmark trees and either forward a recommendation to the Council to approve the applications or deny the applications.</p> <p>Review applications for designations of landmark districts and either forward a recommendation of approval to the Commission and Council or deny the applications.</p> <p>Outside of the CD zoning district, approve/disapprove, applications for Certificates of Appropriateness for major projects affecting historic resources and demolition projects affecting historic resources eligible for designation.</p> <p>For public projects, forward recommendations to the Design Commission/Council on proposals for major projects affecting historic resources.</p> <p>Review appeals of decisions of the Director.</p> <p>Approve/disapprove applications for relief from the replacement Building Permit requirement for historic resources, outside the CD zoning district.</p> <p>Act as decision-making body on applications for an economic hardship variance outside the CD zoning district. Approve requests to exceed allowable height for accessory structures in compliance with Section 17.50.250.</p> <p>Review appeals of penalties for demolition without required approvals.</p> <p><u>Provide advisory comments to the Design Commission for projects requiring both an application for a Certificate of Appropriateness and an application for Design Review.</u></p>
Design Commission	<p>In the CD zoning district, approve/disapprove Design Review applications for major projects affecting designated historic resources and approve/disapprove relief from the replacement Building Permit requirement for designated and eligible historic resources.</p> <p>Act as decision-making body on applications for an economic hardship variance in the CD zoning district.</p> <p>As specified in Table 6-2 and Table 6-3, review public projects affecting historic resources (after consulting with and receiving advice from the Historic Preservation Commission).</p>
Planning Commission	<p>Recommend to Council approval/disapproval of landmark district zoning map overlays.</p>
	<p>Approve/disapprove designations of landmarks, historic monuments, historic signs,</p>

<b>Review Authority</b>	<b>Powers and Duties</b>
Council	landmark trees, and landmark districts. Call for review/appeals of decision of the Director, Historic Preservation Commission, and Design Commission.