

CALIFORNIA COASTAL COMMISSION

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Prepared July 28, 2010 (for August 11, 2010 Hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, District Manager
Mike Watson, Coastal Planner

Subject: Minor Amendment Determination for City of Carmel-by-the-Sea Local Coastal Program Amendment Number 2-10 (Mills Act)

Carmel-by-the-Sea Proposed Amendment

Carmel-by-the-Sea is proposing to amend the certified Local Coastal Program (LCP) Implementation Plan (IP) to update Mills Act provisions and expand its benefits to any property that contains an historic resource as a means to assist in the rehabilitation/restoration of degraded historic resources. See Exhibit A for the City's staff report on this matter, Exhibit B for the adopted ordinance making the change, and Exhibit C for the cross-through and underline proposed changes.

Minor LCP Amendment Determination

Pursuant to California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is "minor". CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if one-third of the appointed members of the Commission do not object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on August 11, 2010).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is minor.

The Mills Act was enacted in 1972 to facilitate and encourage the rehabilitation and restoration of historic properties. Though local governments are not required to participate, the City benefits through the rehabilitation and maintenance of degraded historic resources, while participating property owners



receive reduced property taxes as an incentive. The City's Historic Preservation Ordinance was certified as part of the LCP in 2004 and includes Mills Act incentives for property owners in the City's residential zone districts and for commercial properties that provide affordable housing. The City has indicated that the affordable housing requirement is problematic and has made qualifying for said Mills Act benefits and thus rehabilitation/restoration of historic commercial structures difficult. The proposed IP amendment would eliminate the affordable housing requirement for commercial structures, orienting the program towards historic resources that need more significant rehabilitation, and otherwise extend the opportunity for Mills Act contracts to any historic property listed on the City's Historic Register in all districts. The proposed changes make the IP more specific without changing the kind, density, or intensity of use, and further LCP goals of protecting and rehabilitating/restoring historic resources within Carmel village.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its August 11, 2010 meeting at the Board of Supervisor Chambers, 1055 Monterey Street, in San Luis Obispo. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Mike Watson at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed minor LCP amendment determination, please do so by August 6, 2010.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 29, 2010. It is IP only and the 60-day action deadline is August 28, 2010. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until August 28, 2010 to take a final action on this LCP amendment.

Exhibits:

Exhibit A: City Council ordinance modifying Mills Act provisions

Exhibit B: Proposed changes to the LCP in strike-through and underline



JUN 21 2010

CITY OF CARMEL-BY-THE-SEA**CITY COUNCIL****ORDINANCE 2010-3****CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CARMEL-BY-THE-SEA AMENDING THE MILLS ACT PROGRAM
FOUND IN THE CITY'S HISTORIC PRESERVATION ORDINANCE**

WHEREAS, The City of Carmel-by-the-Sea is a unique community that prides itself in its historic character; and

WHEREAS, the City has adopted a General Plan and Municipal Code that strive to protect the village character through clear policies and regulations that guide historic preservation; and

WHEREAS, the Mills Act was adopted by the State of California in 1972; and

WHEREAS, jurisdictions are not required to implement the Mills Act; and

WHEREAS, participating jurisdictions may establish specific application requirements to suit local needs; and

WHEREAS, the City adopted the Mills Act as a potential benefit to property owners of historic resources as part of the Local Coastal Program; and

WHEREAS, the proposed ordinance revises section 17.32.100.B of the Zoning Ordinance/Local Coastal Implementation Plan to focus Mills Act contracts on properties that have a demonstrable rehabilitation or restoration need; and

WHEREAS, the Historic Resources Board and the Planning Commission unanimously recommended adoption of the ordinance; and

WHEREAS, the City Council approved the first reading of the ordinance on 4 May 2010; and

WHEREAS, this ordinance will be carried out in a manner consistent with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA does hereby resolve to:

Amend Municipal Code Section 17.32.100.B revising the Mills Act program in the City of Carmel-by-the-Sea as shown in Exhibit "A".

Severability. If any part of this ordinance, even as small as a word or phrase, is found to be unenforceable such finding shall not affect the enforceability of any other part.

Effective Date. This ordinance shall become effective 30 days after final adoption by the City Council or the California Coastal Commission, whichever occurs last.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 8th day of June, 2010 by the following roll call vote:

AYES:	COUNCIL MEMBERS:	BURNETT; HAZDOVAC; SHARP; TALMAGE & McCLOUD
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

SIGNED,



SUE McCLOUD, MAYOR

ATTEST:



Heidi Burch, City Clerk

Exhibit "A"

City Mills Act Requirements (revisions shown in strikeout and underline)

B. Mills Act Historical Property Contracts. (CMC 17.32.10)

1. Purpose. A Mills Act contract under State law is an agreement between the City of Carmel and a property owner of an historic building listed on the Carmel Register. The property owner benefits from a reduction in property taxes, and the City is assured that the historic building is rehabilitated, maintained and preserved. All Mills Act contracts shall be established, processed and approved in conformance with California law. The primary purpose for offering Mills Act contracts in the City of Carmel-by-the-Sea is to assist in the rehabilitation or restoration and long-term maintenance of historic resources.

2. Applicability. All properties listed on the City's Historic Register in all districts ~~Properties in the R-1 district that have been, and will be, preserved in their historic size, form and design without significant alterations or additions are eligible for Mills Act contracts. Mills Act contracts for properties in the R-4 and commercial districts shall be limited to those creating new low, very low or moderate income housing through conversion of existing floor space occupied by market rate housing or occupied by nonresidential uses. Properties that are not currently on the register shall not be eligible for a Mills Act contracts with the City.~~

3. Term of Contract. All Mills Act contracts shall have a term of 10 years and one year shall be added to this term annually upon each anniversary date of the contract unless one or both parties have taken action to terminate the contract. The City Administrator shall be authorized to initiate contract termination on behalf of the City based on recommendations of the Department. The contract rights and obligations are binding upon all successive owners of the property during the life of the contract. The property retains the lower Mills Act tax rate when the property is sold. To end a contract, either party may submit a notice of nonrenewal to the other party. Such notices shall cause the contract to terminate at the end of the then-current 10-year contract period. Cancellation of a contract by the City due to noncompliance requires a public hearing and, if cancelled, results in the immediate termination of the contract and a penalty equal to 12.5 percent of the assessed market value of the property.

4. Contract Requirements. The contract will require that the historic elements of the property are maintained in good condition. This will include a plan for rehabilitation and maintenance and may include a program to restore deteriorated elements. All recipients of Mills Act contracts are required to implement a rehabilitation/restoration and maintenance plan prepared by a qualified professional and to submit an annual report to the Department specifying all work that has been done to maintain and preserve the historic resource over the year in compliance with the approved rehabilitation/restoration and maintenance plan. All rehabilitation/restoration and maintenance work shall be completed in conformance with the Secretary of Interior's Standards for Rehabilitation. All Mills Act contracts shall specify that the rehabilitation/restoration and maintenance plan shall be updated at least every 10 years by a qualified professional and approved by both parties.

5. Applications.

a. Staff shall make available appropriate Mills Act application materials. Applications for contracts that will commence in the following calendar year shall be submitted no later than June 30th of each year. This annual schedule provides sufficient time from receipt of application materials for a recommendation by the Historic Resources Board (HRB), the City Council to approve and the City Clerk to cause to be recorded with the Monterey County Recorder approved contracts within the calendar year in which application materials are received. The contract term would begin January 1st of the year following the application.

- b. The following materials are required for a complete application:
- i. A completed application form and all filing fees as established by resolution of the City Council.
 - ii. A full legal description of the property attached and labeled "Exhibit A."
 - iii. A **rehabilitation/restoration and** maintenance plan for the historic resource prepared **or reviewed** by a qualified professional together with a cost estimate of the work to be done attached and labeled as "Exhibit B."
 - iv. Photos of the exterior of the property attached as **"to assist in the rehabilitation/restoration and maintenance of the property attached as "Exhibit D".**

6. Review Process.

a. Upon submittal of a complete application, staff will prepare a staff report for review by the **HRB** Board. The **HRB** Board shall consider each application for a Mills Act contract and make recommendations to the City Council to approve, approve with conditions or deny the application.

b. The City Council shall, in a public hearing, consider recommendations from the **HRB** Board and resolve to approve, approve with conditions, or deny the proposed contract with sufficient time for action by the City Clerk so that recordation of approved contracts occurs prior to December 31st of the year in which the application is received.

c. To grant approval of a Mills Act contract, the **HRB** Board and City Council shall make all of the following findings:

i. The building is designated as an historic resource by the City and is listed on the Carmel Register.

ii. The proposed **rehabilitation/restoration and** maintenance plan is appropriate in scope and sufficient in detail to guide long-term **rehabilitation/restoration and** maintenance. **Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.**

iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:

(A) Comply with the Secretary's Standards (**future additions only**), ~~and do not affect the basic form and design of the original historic resource~~, and

(B) Do not **significantly alter, damage or diminish** affect any primary elevation or character-defining feature, and

~~(C) Do not alter, damage or diminish any character-defining feature, and~~

~~(C)(D)~~ Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource, and

~~(D)(E)~~ Do not result in any second-story addition to a single-story historic resource. ~~and~~

~~(F) Meet all zoning standards applicable to the location of the property.~~

iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and/or maintaining the historic resource. ~~and/or will offset potential losses of income that might otherwise be achieved on the property.~~

v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.

d. Upon approval of a contract by the City Council, the City Clerk shall transmit the contract, with the appropriate fee, to the County Recorder's Office. The property owner is responsible for all filing fees. After recordation, the recorded contract shall be transmitted to the County Assessor. The Assessor calculates the exact tax savings. Property owners are required to report to the State Office of Historic Preservation that a Mills Act contract has been completed.

e. The City Council may establish by Resolution a limit on the number of contracts that can be approved during any calendar year.