

APPENDIX A

Chapter 14.91 - MILLS ACT PROGRAM

14.91.010 - Authority for Adoption.

This Chapter is adopted pursuant to California Government Code Sections 50280 through 50290, commonly known as the "Mills Act."

14.91.020 - Purpose and applicability.

State law provides that the City Council may contract with the owner of any qualified historical property in a manner which they deem as reasonable to carry out the purposes of the Mills Act. The Mills Act enables the City Council, in its discretion, to enter into historic property preservation contracts with the owner(s) of qualified historical properties within the City of Los Altos. The historic property contract allows the owner of a qualified historical property to obtain preferential property tax assessment in exchange for restrictions on the property to help preserve, restore, and maintain the historic property.

14.91.030 - Definitions.

The following definitions shall apply for the purposes of this Chapter:

"Anniversary date" means the date of final execution by all parties of the historic property contract and the same date each subsequent year that the historic property contract is in effect.

"Historic property preservation contract" means a contract between the owner(s) of a qualified historic property and the City of Los Altos, meeting all requirements of State law and this Chapter. The "historic property preservation contract" may also be referred to in this Chapter as "historic contract."

"Owner" means all persons and entities that have a right, title, or interest in the property which is the subject of the historic property contract. The term "owner" includes agents authorized in writing by the owner to act on owner's behalf. The term "owner" also includes owner's successors-in-interest.

"Qualified historical property" means a privately owned property, inclusive of the qualified historical improvements and any land on which the qualified historical improvements are located, which is not exempt from property taxation and which meets any one of the following criteria:

1. A property or structure listed individually in the National Register of Historic Places;

2. A property or structure listed individually in the California Register of Historical Resources;
3. A property or structure listed individually in the City of Los Altos' adopted Historical Resource Inventory;

14.91.040 - Limitations on historic property contracts.

- A. The City Council may, in its sole discretion and pursuant to the terms of this Chapter, enter into historic contracts with the owners of qualified historical properties that are located within the City of Los Altos.
- B. Only qualified historical properties shall be eligible to enter into historical contracts.
- C. Applications for historic contracts must be received prior to July 1 of any calendar year to be processed during that calendar year. Historic property contracts must be approved, signed, and recorded in the Office of the Recorder of the County of Santa Clara on or before December 31 of a calendar year to be eligible for property tax reassessment for the following fiscal year.
- D. The intent of this Chapter is to establish procedures whereby property subject to a historic property contract approved, executed, and recorded pursuant to this Chapter will be eligible for property tax valuation as an enforceable restricted historical property pursuant to state law (Sections 439 through 439.4 of the California Revenue and Taxation Code, as may be periodically amended). In the event that only a portion of a property or structure is the subject of a historic contract, only that portion of the property or structure covered by the historic property contract shall be considered for preferential property tax assessment treatment under state law. The rest of the property or structure shall be subject to standard property tax assessment, and the total assessed value shall be a combination of the two methods as determined by the County Assessor. This section shall not be construed to circumvent or diminish any requirements of the Subdivision Map Act.
- E. Properties with recorded historic contracts must comply with all applicable City of Los Altos rules, regulations, policies, permit requirements, and associated fees, including those needed to carry out the provisions of the historic contract. Entry into a historic contract does not relieve the property which is the subject of the contract from compliance with any and all applicable federal and state laws and local regulations.
- F. Applications for historic contracts on properties on which a notice of violation has been recorded will not be accepted under this Chapter until the violation has been cleared.

14.91.050 - Required provisions of historic property contracts.

- A.** The historic contract shall be in a form acceptable to City Attorney and the City Manager or their designee and shall be retained in the records of the City of Los Altos, City Clerk's Office. The Development Services Department may develop and maintain a historic contract template.
- B.** Each historic property contract shall at a minimum include, without limitation, the following terms, conditions, restrictions, and requirements:
- 1.** The contract shall contain a legal description of the property which is the subject of the contract.
 - 2.** The contract shall have a minimum term of ten (10) years. Each year, on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless the owner or the City of Los Altos has given timely written notice of non-renewal.
 - 3.** The contract shall run with the land and be binding upon, and inure to the benefit of, all successors in interest of the owner(s). A successor in interest shall have the same rights and obligations under the contract as the original owner(s) who entered into the contract.
 - 4.** The contract shall include a written ten (10) year maintenance/rehabilitation work program to confirm a commitment to restore, rehabilitate, and/or preserve the subject property in conformance with all of the following as applicable:
 - a.** The rules and regulations of the Office of Historic Preservation of the California State Parks Department;
 - b.** The United States Secretary of the Interior's Standards for the Treatment of Historic Properties;
 - c.** The California Building Standards Code (Title 24 of the California Code of Regulations), including the California Historical Building Code (Part 8 of Title 24) where applicable; and
 - d.** The requirements, provisions, and conditions set forth in the historic property contract.
 - 5.** The contract shall provide for an inspection of the interior and exterior of the premises by the City of Los Altos five (5) years after entry into the contract and every five (5) years thereafter to determine the owner's continued compliance with the contract. Photographs of the interior and exterior shall not substitute the requirement for an onsite inspection of the property by city staff.
 - 6.** The contract shall provide that the City of Los Altos may cancel the contract, subject to the terms of this Chapter, if the City determines that any of the following have occurred:

- a. The owner has breached any of the conditions of the contract including any agreed upon improvements to the property; or
 - b. The owner has allowed the property to deteriorate to the point that it no longer meets the definition of a qualified historical property.
- 7. The contract shall provide that the owner shall furnish the City with any information the City requires in order to enable it to determine the eligibility of the property for contract renewal, including the documentation required for the annual review for compliance with the historic property contract's work program.
- 8. The contract shall contain a clause in a form acceptable to City Attorney that requires the owner to defend, indemnify, and hold harmless the City, its agents, officers, and employees from any claim, action or proceeding against the City or its agents, officers, and employees arising in connection with the historic property contract.
- C. At the time rehabilitation or restoration of the subject property is achieved and so long as the contract is in effect, the owner shall commit to and be responsible for appropriate maintenance and preservation of the subject property in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

14.91.060 - Application for historic property contracts.

- A. Only qualified historical properties, as defined by this Chapter, are eligible for historic contracts under this Chapter. The owner of a qualified historical property may file an application to enter into a historic contract. Only the owner(s) or agent of the owner(s) may file the application. If the application is made by an agent of the owner(s), the agent must provide written documentation as part of the application of the owner's authorization of the agent to act on the owner's behalf.
- B. All applications for historic property contracts shall be filed with the Development Services Department on the form and in the manner prescribed by the Zoning Administrator. The application shall contain, without limitation, the following information and documentation:
 - 1. The name and address of the owner(s) and signature of the applicant and the names and addresses of all persons and entities having any right, title, or interest in the property which is the subject of the proposed historic property contract;
 - 2. Written consent to make the application from all persons and entities having a right, title, or interest in the real property which is the subject of the proposed historic property contract;
 - 3. A nonrefundable application fee as set by resolution of the City Council;

4. A legal description of the real property and a listing of the Assessor's parcel number(s) for the property;
5. Color photos of the property and each elevation of the subject structure(s);
6. Site plans drawn to scale (the number of site plans required shall be as determined by the Zoning Administrator based on the specific property characteristics);
7. An itemized ten-year maintenance/rehabilitation work program containing, at a minimum, the following information:
 - a. A description of the improvements to be done. The proposed improvements must be appropriate to restore, preserve, and/or maintain the historic structure in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - b. Schedule of improvements;
 - c. Verifiable cost estimates associated with the proposed improvements;
 - d. Preliminary plans, elevations, or any appropriate documentation needed to substantiate and illustrate proposed improvements.
8. Proof that the property is a "qualified historical property." Such proof shall be in the form of the property already listed on the City's adopted HRI, or as part of a dual application for historical designation of the property with the City of Los Altos, or on the State of California or National Register of Historic Places.
9. A property tax adjustment worksheet, on a form acceptable to the Zoning Administrator providing the owner's calculated estimate of the property tax reassessment that would result from the contract. The property tax adjustment worksheet should be completed in consultation with the County of Santa Clara Assessors Office.
 - a. If the property owner(s) are unable to obtain confirmation or data from the County Assessor's Office after documented reasonable attempts, the worksheet may be submitted based on publicly available information and clearly state assumptions.
10. A copy of the most recent real property tax bill for the property.
 - a. In the event that the property has recently transacted or transferred ownership the application shall be accompanied by supplemental documentation which reflects the anticipated real property tax bill for the property.
11. An appraisal of the fair market value of the property (land plus improvement value), prepared by an independent certified appraiser no more than one (1) year prior to the application for the contract and as

determined prior to the improvements proposed in the application for the contract.

12. Such other information as the Zoning Administrator may request to evaluate and process the application.

C. A separate application shall be filed for each property on which a historic property contract is requested.

D. The owner shall allow for an inspection of the interior and exterior of the premises by the City of Los Altos Development Services Department staff prior to entry into the contract. Inspection shall verify exiting conditions of the property and cannot be substituted by photographs.

14.91.070 - Fees.

The applicant for a historic property contract shall pay such application fees as have been adopted by resolution of the City Council. The fees include an initial fee for processing the application, and any deposit to pay the full cost recovery of any City consultants such as an independent historian, and/or environmental review as applicable. Any fees required shall be paid upon submittal of application.

14.91.080 - Eligibility criteria.

A. To be eligible for a historic property contract, the application must meet all of the following criteria:

- 1.** The property that is the subject of the application is a qualified historical property as defined by this Chapter.
- 2.** The application is consistent with the City's historic preservation goals and policies, as set forth in any adopted policies and ordinances.
- 3.** The application is consistent with the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties, the rules and regulations of the Office of Historic Preservation of the California State Parks Department, and the California Historical Building Code.
- 4.** The application is consistent with the requirements of this Chapter.

14.91.090 - Review of applications.

A. The Zoning Administrator shall review the applications for completeness and accuracy and may require such additional information from the applicant as is needed to make the application complete. Only applications filed on or before June 1 of a calendar year shall be eligible for consideration for a historic property contract for the subsequent fiscal year.

B. All applications deemed complete by the Zoning Administrator shall be referred to the Historical Commission for recommendation to the City Council on eligibility of the property for a historic property contract.

- C. The Historical Commission shall make a recommendation on the eligibility of the property for a historic property contract for consideration by the City Council.
- D. If the Historical Commission finds that the application meets the criteria for eligibility for a historic property contract, the Historical Commission shall recommend approval to the City Council. If the Historical Commission finds that the application does not meet the criteria for eligibility, the Historical Commission shall recommend to the City Council that the application be denied for a historic property contract.
- E. The historic property contract shall be consistent with the requirements of this Chapter and state law and in a form acceptable to the City Attorney. The contract shall be approved as to form by City Attorney prior to submission of the contract to the City Council for its consideration.
- F. Final action on the contract shall be considered by the City Council at a noticed public hearing. The City of Los Altos shall not execute any contract until authorized by the City Council and until all persons and entities having any right, title, or interest in the property which is the subject of the contract have signed the contract or provided written authorization for an agent to execute the contract on their behalf and until the owner(s) have submitted to the city the appropriate fee for recordation of the contract.

14.91.100 - Recordation of approved historic property contracts.

No later than twenty (20) calendar days after execution by all parties of the historic property contract, the City Clerk shall cause a copy of the executed historic property contract to be recorded in the Office of the Recorder of the County of Santa Clara accompanied by the fee paid by owner for recordation of the contract.

14.91.110 - Review of approved historic property contracts.

- A. The owner shall allow for inspection of the exterior of the premises by the City of Los Altos Development Services Department staff after five (5) years from entry into the contract and every five (5) years thereafter to determine the owner's continuing compliance with the historic property contract. Photographs of the interior and exterior shall not substitute the requirement for an onsite inspection of the property by city staff.
- B. No later than ninety (90) days prior to each five (5) year inspection date, the owner shall submit documentation to the Development Services Department in sufficient detail to demonstrate compliance with the historic property contract's work program, including but not limited to the following documentation:
 - 1. Color photos of actual work done in conformance with the contract;
 - 2. Receipts and copies of financial transactions related to work carried out in conformance with the recorded contract;

3. Copies of building permits, planning entitlements, and/or historic alteration permits for work carried out in conformance with the recorded historic property contract; and
 4. Such other information as may be required by the Zoning Administrator.
- C. The Zoning Administrator shall review the documentation to determine compliance with the recorded historic property contract. If documentation is not submitted within the required timeframe or the documentation submitted demonstrates in the determination of the Zoning Administrator that the owner has breached any of the conditions of the historic property contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the Zoning Administrator shall begin the process for cancellation of the contract pursuant to this Chapter.
- D. At least sixty (60) days prior to the tenth anniversary date of the historic property contract, the owner shall submit a report from a qualified historian to the Development Services Department. The report shall describe the work carried out pursuant to the contract and shall recommend any appropriate improvements needed to achieve rehabilitation, restoration, or preservation of the property. Based on the recommendations, the City of Los Altos may require an amendment to the contract to update the maintenance/rehabilitation program. If the Zoning Administrator determines, as part of the tenth year review, that rehabilitation or restoration for the subject property has been achieved, the owner shall commit to and be responsible for appropriate maintenance and preservation of the subject property in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties so long as the contract remains in effect.

14.91.120 - Nonrenewal of historic property contracts.

- A. Each year on the anniversary date of the contract or such other date as is specified in the contract, a year shall be added automatically to the initial term of the contract, unless the owner or the City has given timely written notice of nonrenewal in accordance with the requirements of state law and this Chapter. If the owner desires in any year not to renew the contract, the owner shall serve written notice of nonrenewal of the contract to the Zoning Administrator at least ninety (90) days in advance of the annual renewal date of the contract. If the City Council determines in any year not to renew the contract, the City Council or their authorized designee shall serve written notice of nonrenewal of the contract on the owner at least sixty (60) days in advance of the annual renewal date of the contract. The City of Los Altos shall serve a notice of nonrenewal only after the City Council has conducted a noticed public hearing to consider the nonrenewal. Unless the notice of nonrenewal is served by the owner(s) or the City in

accordance with these requirements, one year shall automatically be added to the term of the contract.

- B.** Upon receipt by the owner of a notice from the City for nonrenewal of the contract, the owner may make a written protest of the notice to the City Council. Such protest must be in writing and filed with the City Clerk within ten (10) days after the written notice of nonrenewal was mailed to the owner. If a written notice of protest is timely filed, the City Clerk shall schedule the protest for a noticed public hearing before the City Council within sixty (60) days of the filing of the protest and notify the owner of the hearing date. The City Council may, at any time prior to the renewal date, withdraw the notice of non-renewal. Following the hearing, the City Council may withdraw or affirm the notice of non-renewal. If the City Council affirms the notice of nonrenewal, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract.
- C.** Following the nonrenewal of the contract, the property shall be assessed in accordance with state law (Section 439.3 of the Revenue and Taxation Code, as may be periodically amended).

14.91.130 - Amendment of historic property contracts.

- A.** A historic property contract may be amended, in whole or in part, in accordance with the provisions of this Chapter.
- B.** For owner-initiated amendments to a historic property contract, the owner must file an application for an amendment with the Development Services Department on the form and in the manner prescribed by the Zoning Administrator. The owner shall pay such application fees as have been set by resolution of the City Council. The Zoning Administrator shall review the amendment application for completeness and adequacy. The Zoning Administrator may request additional information as necessary to evaluate the amendment.
- C.** For City of Los Altos-initiated amendments to a historic property contract, the Zoning Administrator shall inform existing owner(s) of intended amendments. City-initiated amendments shall be in conformance with the provisions of this Chapter and are to ensure the continued preservation of historic resources with historic property contracts.

 - 1.** City-initiated amendments shall be considered during the annual review of historic property contracts in order to ensure each existing contract adheres to the provisions of this Chapter as amended from time to time.
- D.** At such time that the Zoning Administrator has determined the amendment to be complete, the Zoning Administrator shall refer the amendment to the Historical Commission for a recommendation to the City Council.

- E. Following receipt of the Historical Commission recommendation and following all applicable environmental review, the City Council shall render a decision on the proposed amendment.
- F. No later than twenty (20) calendar days after City of Los Altos execution of the amendment to the historic property contract, the City Clerk shall cause a copy of the executed amendment to be recorded in the Office of the Recorder of the County of Santa Clara accompanied by the fee paid by owner for recordation of the contract amendment.

14.91.140 - Cancellation of historic property contracts.

- A. The City of Los Altos may cancel a historic property contract, subject to the process described in this section, if the City finds that one of the following conditions has occurred:
 - 1. The owner has breached any of the conditions of the historic property contract; or
 - 2. The owner has allowed the property to deteriorate to the point that it no longer meets the definition of a qualified historical property.
- B. The following process shall be followed for cancellation of a historic property contract:
 - 1. If the Zoning Administrator determines at any time that the owner has breached any of the conditions of the historic property contract or has allowed the property to deteriorate to the point that it no longer meets the definition of a qualified historical property, the Zoning Administrator shall notify the owner in writing describing the deficiencies. If the owner has not corrected the deficiencies to the satisfaction of the Zoning Administrator within sixty (60) days of the issuance of the notification, the Zoning Administrator may refer the cancellation of the contract to the Historical Commission for a recommendation to the City Council on the cancellation.
 - 2. The Historical Commission shall, at a noticed public hearing, evaluate the evidence in the record and provide a written recommendation to the City Council as to whether one of the conditions for cancellation has occurred.
 - 3. Following receipt of the Historical Commission recommendation, the City Council shall, at a noticed public hearing, consider whether to cancel the contract. No contract shall be cancelled until after the City Council has given notice of and has held a public hearing on the cancellation.
- C. To cancel the contract, the City Council must make a finding, based on substantial evidence that one of the following conditions has occurred:
 - 1. The owner has breached a condition of the historic property contract; or
 - 2. The owner has allowed the property to deteriorate to the point that it no longer meets the definition of a qualified historical property.

- D.** If a historic property contract is cancelled under this section, the owner shall, in accordance with Government Code Sections 50284 and 50286, pay a cancellation fee equal to twelve and one-half (12½) percent of the property's current fair market value, as determined by the County Assessor as though the property were free of the contractual restriction.

14.91.150 - Notice of hearing.

Any decisions rendered under regulations contained within this Chapter are subject to public meeting notice requirements pursuant to Section 14.01.130 of the Los Altos Municipal Code.