

## Chapter 12.44 HISTORIC PRESERVATION<sup>1</sup>

### Sections:

### *Article 1. General Provisions*

#### **12.44.010 Purpose.**

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement and use of historic resources within the City of Los Altos is required in the interest of health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

- A. Safeguard the heritage of the city by providing for the protection of irreplaceable historic resources representing significant elements of its history;
- B. Enhance the visual character of the city by encouraging the compatibility of architectural styles which reflect established architectural traditions;
- C. Encourage public knowledge, understanding and appreciation of the city's past, and foster civic and neighborhood pride and sense of identity based upon the recognition and use of the city's historic resources;
- D. Stabilize and improve property values within the city and increase the economic and financial benefits to the city and its inhabitants derived from the preservation, rehabilitation, and use of historic resources;
- E. Integrate the conservation of historic resources into the public and private development process and identify as early as possible and resolve conflicts between the preservation of such resources and alternative land uses; and
- F. Fulfill the city's responsibilities for Federal Section 106 reviews and for the California Environmental Quality Act.

(Ord. No. 2011-363, § 1, 3-8-2011)

#### **12.44.020 Area of application.**

This chapter shall apply to all historic resources listed in the historic resources inventory, historic landmarks and properties, and structures.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

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<sup>1</sup>Editor's note(s)—Ord. No. 2011-363, § 1, adopted March 8, 2011, amended Ch. 12.44 in its entirety to read as herein set out. The former Ch. 12.44, §§ 12.44.010—12.44.220, pertained to similar subject matter and derived from Ord. No. 04-257, § 1(part) and Ord. No. 08-324, § 2(part). Previously, said chapter derived from §§ 2-8.101, 2-8.102 and 2-8.301—2-8.504 of the prior code.

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## 12.44.030 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Alteration" means any act or process that changes any portion of the exterior architectural appearance of a structure or object, including, but not limited to, the erection, construction, reconstruction, removal of exterior architectural features or details, or the addition of new structures, but does not include painting, ordinary maintenance and landscaping.

"California Historical Building Code" is Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historic structures and sites, designated under federal, state and local authority. It provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as qualified historic buildings.

"California Office of Historic Preservation" means the governmental agency primarily responsible for the statewide administration of the historic preservation program in California.

"California Register of Historical Resources" is a comprehensive listing of California's historical resources, including those of local, state and national significance.

"Character defining features" means the defining elements, such as prominent architectural features, materials, craftsmanship or other elements, that, individually or in combination, identify a historic property, building or landscape.

"Commission staff" means the staff liaison assigned to the historical commission.

"DPR 523" means the California Department of Parks and Recreation Historic Resource Inventory Forms used for historic evaluations. The DPR 523A form provides descriptive information about a resource. The DPR 523B form provides an evaluation of the resources and includes a determination as to whether the resource is eligible for the National or State Register of Historic Places or listing on the Los Altos Historic Resources Inventory.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all the outer surfaces of an improvement, including but not limited to, the kind, size, shape and texture of building materials, and the type and style of windows, doors, lights, signs and other fixtures appurtenant to such improvement.

"Historic landmark" means a building, improvement, structure, natural feature, site or area of land, under single or common ownership that has significant historical, architectural, cultural, and/or aesthetic interest or value, and is designated as a historic landmark by the city council.

"Historic resource" is a property or structure that has been determined to be over fifty (50) years old, retains its physical integrity, has historical, architectural, cultural, and/or aesthetic value, and is listed on the historic resources inventory.

"Historic resources inventory" means the city's official inventory of the historic resources, as adopted and amended from time to time by resolution of the historical commission and/or the city council. A property or structure must be designated as a historic landmark or a historic resource in order to be listed.

"Historical commission" is a seven-member advisory commission appointed by the city council that is tasked with maintaining the historic resources inventory, making recommendations on historic landmarks, working with property owners on preservation, maintenance and other development activities related to historic resources, and other activities as identified in the municipal code.

"Improvement" means any building, structure, parking facility, wall, work of art or other appurtenance or addition thereto constituting a physical betterment of real property or any part of such betterment.

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"Integrity" is the authenticity of the characteristics, also referred to as character defining features, from which resources derive their significance. Integrity is the composite of seven qualities: location, design, setting, materials, workmanship, feeling and association.

"Mills Act" is an economic incentive program in California for the restoration and preservation of qualified historic structures. Enacted in 1972, the Mills Act grants participating local governments the authority to enter into contracts with owners of qualified historic properties to reduce the property tax assessment in exchange for the restoration and maintenance of the historic resource.

"National Register of Historic Places" is the official inventory of districts, sites, buildings, structures and objects significant in American history, architectural, archeology and culture, maintained by the Secretary of Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

"Preservation" means the act of identification, study, protection, reconstruction, restoration, rehabilitation or enhancement of historic and/or cultural resources.

"Reconstruction" means the act or process of reproducing by new construction, the exact form and detail of a vanished building, structure or any part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

"Restoration" means the act or process of accurately recovering 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 Interior's Standards" are the Federal Standards for the Treatment of Historic Properties that are utilized in the identification, evaluation, registration and treatment of historic properties. The list of ten (10) Rehabilitation Standards, published as the Secretary of the Interior's Standards, is aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

## ***Article 2. Designation of Historic Resources***

### **12.44.040 Criteria for designation.**

A structure, property or object may be eligible for designation as a historic resource or historic landmark, if it/they satisfy each of the three criteria listed below:

- A. Age. A structure or property should be more than fifty (50) years in age. (Exceptions can be made to this rule if the building(s) or site(s) is/are truly remarkable for some reason - such as being associated with an outstanding architect, personage, usage or event).
- B. Determination of Integrity. A structure or property should retain sufficient historic integrity in most of the following areas:
  1. Design: The combination of elements that create the form, plan, space, structure and style of a property.
  2. Setting: The physical environment of a historic property.
  3. Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

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4. Workmanship: The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
  5. Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.
- C. Historic Significance. A structure or property should be clearly associated with one or more of the following areas of significance:
1. Event: Associated with a single significant event or a pattern of events that have made a significant contribution to broad patterns of local or regional history, or cultural heritage of California or the United States;
  2. Person/People: Associated with the lives of persons important to the local, California or national history;
  3. Architecture/Design: Embodies the distinctive characteristics of a design-type, period, region or method of construction, or represents the work of a master or possesses high artistic value; or
  4. Archaeology: Yields important information about prehistory or history of the local area, California or the nation.

The city's historic resource evaluation methodology, which provides more details about the above listed criteria, is available from the planning division.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

#### **12.44.050 Applications for designation.**

- A. Applications for designation as a historic landmark, or listing a historic resource on the historic resources inventory may be initiated by the owner or owners of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as a historic resource or historic landmark.
- B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. The historical commission may also consider a proposed designation upon its own initiative or by referral by the ~~community~~ development services director.
- C. Applications for designation as a historic landmark, or listing a historic resource on the historic resources inventory shall be made to the historical commission. Applications must be accompanied by such historical and architectural information as is required by the historical commission in order to make an informed recommendation concerning the request.

Applications for designation shall be acted on as set forth in sections 12.44.050, 12.44.060 and 12.44.070 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

#### **12.44.060 Historic resource listing.**

- A. Once the application for designating a property as a historic resource and listing it on the historic resources inventory has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed listing. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.

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- C. The commission shall consider the proposed historic resource and determine whether or not the property satisfies the three criteria outlined in Section 12.44.040. The commission shall by motion either approve or disapprove the designation of the property as a historic resource and listing it in the historic resources inventory.
  - D. If the commission approves the historic resource for listing on the historic resources inventory, the listing shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter.
  - E. Until final action has been taken by the commission on the request to list a property, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the community development services director. This restriction shall become effective as of the time the application is submitted, and shall extend until the commission has taken action.
  - F. Within fifteen (15) days of the action taken by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party.

(Ord. No. 2011-363, § 1, 3-8-2011)

#### **12.44.070 Historic landmark designation.**

- A. Once the application for the proposed designation has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed designation. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication in at least one newspaper of general circulation within the city, by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.
- C. The commission shall make a recommendation to the city council on the proposed designation. In order to make a positive recommendation, the commission shall make the following findings:
  - 1. That the proposed historic landmark satisfies the three criteria outlined in Section 12.44.040; and
  - 2. That the proposed landmark has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- D. The city council shall consider the proposed designation at its next available regular meeting and determine whether or not to accept the historical commission's recommendation. The city council shall by resolution either approve the proposed designation, in whole or in part or as modified, or shall, by motion, disapprove the proposal in its entirety.
- E. If the city council approves the landmark designation, the resolution shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter and to such further restrictions or controls as may be specified in the designating resolution.
- F. Adoption of a designating resolution by the city council shall be based upon the findings outlined in subsection (C) of this section.
- G. Until final action has been taken by the city council on the proposed landmark, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the city council. This restriction shall

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become effective as of the time the application is submitted, and shall extend until the designating resolution becomes effective.

(Ord. No. 2011-363, § 1, 3-8-2011)

#### **12.44.080 Notice of designation.**

- A. Following adoption by the city council of a resolution designating a historic landmark, the commission staff shall send notice of the designation, together with a copy of the resolution or ordinance, to the owner or owners of the designated historic landmark. The city council also shall send notice of the designation to:
  - 1. The Santa Clara County Historical Heritage Commission; and
  - 2. The California State Historic Preservation Officer.
- B. The designating resolution or ordinance shall be recorded with the county clerk-recorder.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Ord. No. 2017-437, § 1, adopted March 13, 2018, repealed § 12.44.080, which pertained to historic district designation, and derived from Ord. No. 2011-363, § 1, adopted March 8, 2011, and subsequently renumbered the remaining sections 12.44.090—12.44.220 as 12.44.080—12.44.210. Historical notations for former sections have been retained for reference.

#### **12.44.090 Termination of designation.**

The only legitimate reason for terminating the designation of a historic resource or historic landmark is when clear evidence is presented that shows the resource no longer meets the criteria of Section 12.44.040 due to loss of integrity and/or historic significance.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.100, see editor's note § 12.44.080.

### ***Article 3. Permits***

#### **12.44.100 Applicability.**

- A. For historic landmark properties, a historical alteration permit (Section 12.44.150) is required in order to alter, demolish, remove, relocate or change any exterior architectural features of the designated landmark structure(s), or remove or relocate any improvements, structures or natural features that contribute to the integrity or the historic significance of the historic landmark.
- B. For historic resources listed on the historic resources inventory, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature that contributes to the integrity or the historic significance of a historic resource.
- C. For subsection (B) of this section, the historical commission's review will take into account whether or not the proposed work adversely affects the physical integrity or the historic significance of the resource. The historical commission's recommendation to the ~~community~~ development services director, ~~design review commission~~, planning commission, or city council, shall be advisory only.

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- D. For non-residential properties that are historic landmarks or historic resources, non-permanent improvements such as signage, awnings and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the [community development services](#) director.
  - E. For residential properties that are historic landmarks or historic resources, improvements such as swimming pools, fences, minor accessory structures such as trellises or barbecues, and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the [community development services](#) director.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.110, see editor's note § 12.44.080.

### **12.44.110 Applications.**

Applications for historical alteration permits or advisory review shall be submitted to the [community development services](#) director. Applications shall include the following information:

- A. A clear statement of the proposed work;
- B. A site plan showing all existing buildings, structures, trees over six inches in diameter, property lines, easements and the proposed work;
- C. Detailed plans showing both the existing and proposed exterior elevations, including a street elevation, photographs of windows and/or special features, materials and grading;
- D. Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials;
- E. Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation; and
- F. Such other information or documents as may be requested by the [community development services](#) director or the historical commission.

Applications shall be noticed as set forth in section 12.44.120 and shall be acted on as set forth in section 12.44.130 and 12.44.140 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.120, see editor's note § 12.44.080.

### **12.44.120 Notice of public meetings.**

- A. Notification shall be provided when an application for a historical alteration permit is required for a historic landmark. Applicants shall be responsible for providing notification via first class mail to the adjoining property owners, in the manner set forth by the commission staff, at least ten (10) days prior to the meeting at which the application is to be reviewed. The property owners who shall be mailed notice include, but are not limited to, the following:
  - 1. The two adjoining property owners on each side;
  - 2. The three adjoining rear property owners; and
  - 3. The five adjoining front property owners across the street.

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4. As deemed appropriate or necessary, the commission staff may require that notification be mailed to a greater or lesser number of property owner(s) than are identified above based on the configuration of the properties adjoining the site of the application.
  5. Notice shall also be posted on the project site near the front property line in accordance with the standards set by the commission staff.
- B. Notice shall be provided when an application for an advisory review is required for a historic resource. Applicants shall be responsible for posting a notice on the project site near the front property line in accordance with the standards set by the commission staff.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.130, see editor's note § 12.44.080.

#### **12.44.130 Advisory review.**

- A. For projects that require an advisory review, the historical commission shall complete its review and issue a recommendation at its next available scheduled meeting. In order to recommend approval, the commission shall find that:
1. The project complies with all provisions of this chapter; and
  2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
- B. The historical commission recommendation shall be forwarded to the ~~community~~ development services director, ~~the design review commission~~, the planning commission, or the city council to be considered as part of their decision.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.140, see editor's note § 12.44.080.

#### **12.44.140 Historical alteration permit.**

- A. For projects that require a historical alteration permit, the historical commission shall complete its review and issue a decision at its next available scheduled meeting. In order to approve a permit, the commission shall find that:
1. The project complies with all provisions of this chapter; and
  2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
  3. The project is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- B. If the historical commission approves the historical alteration permit, or approves such permit subject to conditions, the ~~community~~ development services director shall issue the permit in accordance with the recommendation, provided that no other approval is required under this code. In the event the historical commission recommends denial of the permit, the ~~community~~ development services director shall notify the applicant that the requested permit will not be granted.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)



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Editor's note(s)—Former § 12.44.1500, see editor's note § 12.44.080.

### **12.44.150 Appeal.**

Within ~~fifteen~~fourteen (154) days of any approval or denial by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by city council resolution.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.160, see editor's note § 12.44.080.

## ***Article 4. Miscellaneous Provisions***

### **12.44.160 Incentives for preserving historic resources.**

- A. California Historical Building Code. It is the purpose of the state historical building code to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. Such standards and regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored elements and features, to encourage energy conservation and a cost effective approach to preservation, and to provide for reasonable safety from fire, seismic forces or other hazards for occupants and users of such "buildings, structures and properties" and to provide reasonable availability and usability by the physically disabled. The state historical building code is defined in sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code (H&SC) Health and Safety Code, a part of California Law.
- B. Economic incentives. In order to carry out more effectively and equitably the purposes of this chapter, the city council may, by resolution, adopt a program of economic (i.e., Mills Act contracts) and other incentives to support the preservation, maintenance and appropriate rehabilitation of the city's historic resources.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.170, see editor's note § 12.44.080.

### **12.44.170 Hardship.**

Notwithstanding the criteria of this chapter, the ~~community~~ development ~~services~~ director, on the recommendation of the historical commission ~~or design review commission~~, or the planning commission or city council on appeal, may approve an application for a permit to conduct any proposed work upon or within a historic resource or historic landmark if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will cause immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work or because of conditions peculiar to the particular improvement, building, structure, topography or other feature involved. If a hardship is found to exist under this section, the historical commission ~~or the design review commission~~ or the planning commission or city council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.180, see editor's note § 12.44.080.

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#### **12.44.180 Fees.**

- A. No fee shall be charged for the filing, processing or public noticing of any application for designation.
- B. The city council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this chapter, and for appeals pursuant to this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.190, see editor's note § 12.44.080.

#### **12.44.190 Ordinary maintenance and repair.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance, painting, landscaping or repair of any exterior feature in or upon any historic resource or historic landmark that does not involve a change in design, material or the external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any historic resource or historic landmark which has been certified by the city building inspector, or fire chief, or other code enforcement officer as being in unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.200, see editor's note § 12.44.080.

#### **12.44.200 Duty to keep in good repair.**

- A. The owner, occupant or the person in actual charge of a historic resource or a historic landmark shall keep and maintain in good condition and repair all exterior portions of the improvement or structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature.
- B. It shall be the duty of the ~~development services director or their designee~~ **building official** to enforce this section.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.210, see editor's note § 12.44.080.

#### **12.44.210 Enforcement.**

The violation of any provision contained in this chapter is hereby declared to be unlawful and shall constitute a misdemeanor, subject to the penalties as prescribed in Title 1, Chapter 1.20 of this code.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.220, see editor's note § 12.44.080.