

1 [Administrative, Planning Codes - Historical Property (Mills Act) Contracts and Fee Reduction]

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3 **Ordinance: 1) amending the San Francisco Administrative Code, Chapter 71, entitled**
 4 **"Mills Act Contract Procedures" to: a) amend Section 71.2 to add limitations on**
 5 **eligibility, b) amend Section 71.3 to add application deadlines, c) amend Section 71.4 to**
 6 **add a time limit for receipt of the Assessor-Recorder's report, d) amend Section 71.5 to**
 7 **require use of a standard form contract, and e) adding new Section 71.7 to require**
 8 **departmental monitoring reports; 2) amending the San Francisco Planning Code**
 9 **Section 356 to reduce the application fee for Mills Act contracts; and 3) making**
 10 **findings, including environmental findings and findings of consistency with the**
 11 **General Plan and Planning Code Section 101.1(b).**

12 NOTE: Additions are *single-underline italics Times New Roman*;
 13 deletions are *strike-through italics Times New Roman*.
 14 Board amendment additions are double-underlined;
 15 Board amendment deletions are ~~strike-through normal~~.

16

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
 18 hereby finds and determines that:

19 (a) General Plan and Planning Code Findings.

20 (1) On June 21, 2012 at a duly noticed public hearing, the Planning Commission in
 21 Resolution No. 18651 found that the proposed Planning Code amendments contained in this
 22 ordinance were consistent with the City's General Plan and with Planning Code Section
 23 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors
 24 adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the
 25 Clerk of the Board of Supervisors in File No. 120528 and is incorporated herein by reference.

1 The Board finds that the proposed Planning Code amendments contained in this ordinance
2 are on balance consistent with the City's General Plan and with Planning Code Section
3 101.1(b) for the reasons set forth in said Resolution.

4 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
5 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
6 Planning Commission Resolution No. 18651, which reasons are incorporated herein by
7 reference as though fully set forth.

8 (b) Historic Preservation Commission Findings. On June 20, 2012, at a duly noticed
9 public hearing, the Historic Preservation Commission in Resolution No. 682 reviewed the
10 proposed Administrative Code amendments and recommended that the Board of Supervisors
11 adopt the proposed amendments. A copy of Resolution No. 682 and any additional
12 recommendations of the Historic Preservation Commission are on file with the Clerk of the
13 Board of Supervisors in File No. 120528.

14 (c) Environmental Findings. The Planning Department has determined that the
15 actions contemplated in this Ordinance are not subject to the California Environmental Quality
16 Act (California Public Resources Code section 21000 et seq.) (CEQA) under Section
17 15060(c)(2) of the CEQA Guidelines. Said determination is on file with the Clerk of the Board
18 of Supervisors in File No. 120528 and is incorporated herein by reference.

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20 Section 2. The San Francisco Administrative Code is hereby amended by amending
21 Section 71.2, to read as follows:

22 SEC. 71.2. ~~QUALIFIED HISTORICAL PROPERTY ELIGIBILITY.~~

23 (a) Qualified Historical Property. An owner, or an authorized agent of the owner, of a
24 qualified historical property may apply for a historical property contract. For purposes of this
25 Chapter 71, "qualified historical property" shall mean privately owned property that is not

1 exempt from property taxation and that has been listed or designated in ~~is~~ one of the following
2 ways on or before December 31 of the year before the application is made:

3 ~~(a)~~(1) Individually listed in the National Register of Historic Places or the California
4 Register of Historical Resources;

5 ~~(b)~~(2) Listed as a contributor to a~~n~~ historic district included on the National Register of
6 Historic Places or the California Register of Historical Resources;

7 ~~(c)~~(3) Designated as a City landmark pursuant to ~~San Francisco~~ Planning Code Article
8 10;

9 ~~(d)~~(4) Designated as contributory to a~~n~~ historic district designated pursuant to ~~San~~
10 ~~Francisco~~ Planning Code Article 10; or

11 ~~(e)~~(5) Designated as Significant (Categories I or II) or Contributory (Categories III or
12 IV) pursuant to ~~San Francisco~~ Planning Code Article 11.

13 (b) Limitations on Eligibility. Eligibility for historical property contracts shall be limited to
14 sites, buildings, or structures with an assessed valuation as of December 31 of the year before the
15 application is made of \$3,000,000 or less for single-family dwellings and \$5,000,000 or less for multi-
16 unit residential, commercial, or industrial buildings, unless the individual property is granted an
17 exemption from those limitations by the Board of Supervisors. For the purposes of this section,
18 "assessed valuation" shall not include any portion of the value of the property that is already exempt
19 from payment of property taxes.

20 (1) The Historic Preservation Commission may recommend that the Board of Supervisors
21 grant an exemption from the limitations imposed by this section upon finding that:

22 (i) The site, building, or structure is a particularly significant resource; and

23 (ii) Granting the exemption will assist in the preservation of a site, building, or structure
24 that would otherwise be in danger of demolition, substantial alteration, or disrepair.

1 (2) The Board of Supervisors may approve a historical property contract not otherwise
2 meeting the eligibility requirements set forth in this subsection (b) if it finds that the property meets the
3 requirements of subsection (a) above and is especially deserving of a contract due to the exceptional
4 nature of the property and other special circumstances.

5
6 Section 3. The San Francisco Administrative Code is hereby amended by amending
7 Section 71.3, to read as follows:

8 SEC. 71.3. APPLICATION FOR HISTORICAL PROPERTY CONTRACT.

9 (a) Who May Apply and Application Content. An owner, or an authorized agent of an
10 owner, of a qualified historical property may submit an application for a historical property
11 contract to the Planning Department on forms provided by the Planning Department. The
12 property owner shall provide, at a minimum, the address and location of the qualified historical
13 property, evidence that the property is a qualified historical property and meets the valuation
14 requirements of Section 71.2(b), the nature and cost of the rehabilitation, restoration or
15 preservation work to be conducted on the property, financial information necessary for the
16 Assessor-Recorder to conduct the valuation assessment under the Mills Act, including any
17 information regarding income generated by the qualified historical property, and a plan for
18 continued maintenance of the property. The Planning Department, the Historic Preservation
19 Commission, or the Assessor-Recorder may require any further information necessary to
20 make a recommendation on or conduct the valuation of the historical property contract.

21 (b) Application Deadlines. The annual application deadline for a historical property
22 contract shall be May 1. Application for a historical property contract may be submitted to the
23 Planning Department between January 1 and May 1 of each year.

1 Section 4. The San Francisco Administrative Code is hereby amended by amending
2 Section 71.4, to read as follows:

3 SEC. 71.4. APPROVAL PROCESS.

4 (a) Assessor-Recorder Review. The Planning Department shall refer ~~the~~ an
5 application for a historical property contract to the Assessor-Recorder for ~~his or her~~ review and
6 recommendation. Within 60 days of the receipt of a complete application, the Assessor-
7 Recorder shall provide to the Board of Supervisors and Historic Preservation Commission a
8 report estimating the yearly property tax revenue to the City under the proposed Mills Act
9 contract valuation method and under the standard method without the proposed Mills Act
10 contract and showing the difference in property tax assessments under the two valuation
11 methods. If the Assessor-Recorder determines that the proposed rehabilitation includes
12 substantial new construction or a change of use, or the valuation is otherwise complex, he or
13 she may extend this period for up to an additional 60 days by providing written notice of the
14 extension to the applicant, the Historic Preservation Commission, and the Board of Supervisors.
15 Such notice shall state the basis for the extension. If the Assessor-Recorder fails to provide a
16 report and recommendation within the time frames set forth here, the Historic Preservation
17 Commission and Board of Supervisors may proceed with their actions without such report and
18 recommendation.

19 (b) Historic Preservation Commission Review. The Historic Preservation
20 Commission shall have the authority to recommend approval, disapproval, or modification of
21 historical property contracts to the Board of Supervisors. For this purpose, the Historic
22 Preservation Commission shall hold a public hearing to review the application for the historical
23 property contract and make a recommendation regarding whether the Board of Supervisors
24 should approve, disapprove, or modify the historical property contract within 90 days of receipt
25 of the Assessor-Recorder's report or within 90 days of the date the report should have been

1 provided if none is received. The recommendation of the Historic Preservation Commission may
2 include recommendations regarding the proposed rehabilitation, restoration, and preservation
3 work, the historical value of the qualified historical property, and any proposed preservation
4 restrictions or maintenance requirements to be included in the historical property contract. The
5 Planning Department shall forward the application and the recommendation of the Historic
6 Preservation Commission to approve or modify ~~an~~ historical property contract, ~~with its~~
7 ~~application,~~ to the Board of Supervisors. ~~If the Historic Preservation Commission recommends~~
8 ~~disapproval of the historical property contract, such decision shall be final unless the property owner~~
9 ~~files an appeal with the Clerk of the Board of Supervisors within 10 days of the final action of the~~
10 ~~Historic Preservation Commission.~~ Failure of the Historic Preservation Commission to act withi
11 the 90-day time limit shall constitute a recommendation of ~~approval~~ disapproval for the
12 purposes of this subsection, and the Planning Department shall notify the property owner in
13 writing of the Historic Preservation Commission's failure to act; provided, however, that the
14 Board of Supervisors by resolution may grant an extension of time to the Historic Preservation
15 Commission for its review. If the Historic Preservation Commission recommends disapproval of the
16 historical property contract, such decision shall be final unless the property owner files an appeal with
17 the Clerk of the Board of Supervisors within 10 days of the final action of the Historic Preservation
18 Commission or within 10 days of the Planning Department's notice of the Historic Preservation
19 Commission's failure to act.

20 (c) Budget Analyst Review. Upon receipt of the recommendation of the Historic
21 Preservation Commission or upon receipt of a timely appeal, the Clerk of the Board of
22 Supervisors shall forward the application and Assessor-Recorder's report to the Budget
23 Analyst, who, notwithstanding any other provision of this Code, shall prepare a report to the
24 Board of Supervisors on the fiscal impact of the proposed historical property contract.

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1 (d) Board of Supervisors Decision. The Board of Supervisors shall conduct a public
2 hearing to review the Historic Preservation Commission's recommendation, the Assessor-
3 Recorder's report *if provided*, the Budget Analyst's report, and any other information the Board
4 requires in order to determine whether the City should execute a historical property contract
5 for a particular property. The Board of Supervisors shall have full discretion to determine
6 whether it is in the public interest to enter *into a Mills Act* historical property contract regarding
7 a particular qualified historical property. The Board of Supervisors may approve, disapprove,
8 or modify and approve the terms of the historical property contract. Upon approval, the Board
9 of Supervisors shall authorize the Director of Planning and the Assessor-Recorder to execute
10 the historical property contract.

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12 Section 5. The San Francisco Administrative Code is hereby amended by amending
13 Section 71.5, to read as follows:

14 SEC. 71.5. TERMS OF THE HISTORICAL PROPERTY CONTRACT.

15 (a) The historical property contract shall set forth the agreement between the City
16 and the property owner that as long as the property owner properly rehabilitates, restores,
17 preserves and maintains the qualified historical property as set forth in the contract, the City
18 shall comply with California Revenue and Taxation Code Article 1.9 (commencing with
19 Section 439) of Chapter 3 of Part 2 of Division 1, provided that ~~the Assessor determines that~~ the
20 specific provisions of the Revenue and Taxation Code are applicable to the property in
21 question. A historical property contract shall contain, at a minimum, the following provisions:

22 (1) The initial term of the contract, which shall be for a minimum period of 10 years;

23 (2) The owner's commitment and obligation to preserve, rehabilitate, restore and
24 maintain the property in accordance with the rules and regulations of the Office of Historic
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1 Preservation of the California Department of Parks and Recreation and the United States
2 Secretary of the Interior's Standards for the Treatment of Historic Properties;

3 (3) Permission to conduct periodic examinations of the interior and exterior of the
4 qualified historical property by the Assessor-Recorder, the Department of Building Inspection,
5 the Planning Department, the Office of Historic Preservation of the California Department of
6 Parks and Recreation and the State Board of Equalization as may be necessary to determine
7 the owner's compliance with the historical property contract;

8 (4) That the historical property contract is binding upon, and shall inure to the
9 benefit of, all successors in interest of the owner;

10 (5) An extension to the term of the contract so that one year is added automatically
11 to the initial term of the contract on the anniversary date of the contract or such other annual
12 date as specified in the contract unless notice of nonrenewal is given as provided in the Mills
13 Act and in the historical property contract;

14 (6) Agreement that the Board of Supervisors may cancel the contract, or seek
15 enforcement of the contract, when the Board determines, based upon the recommendation of
16 any one of the entities listed in Subsection (3) above, that the owner has breached the terms
17 of the contract. The City shall comply with the requirements of the Mills Act for enforcement or
18 cancellation of the historical property contract. Upon cancellation of the contract, the property
19 owner shall pay a cancellation fee of 12.5 percent of the full value of the property at the time
20 of cancellation (or such other amount authorized by the Mills Act), as determined by the
21 Assessor-Recorder without regard to any restriction on such property imposed by the
22 historical property contract; and

23 (7) The property owner's indemnification of the City for, and agreement to hold the
24 City harmless from, any claims arising from any use of the property.

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1 (b) The City and the qualified historical property owner shall comply with all
2 provisions of the Mills Act, including amendments thereto. The Mills Act, as amended from
3 time to time, shall apply to the historical property contract process and shall be deemed
4 incorporated into each historical property contract entered into by the City.

5 (c) The Planning Department shall maintain a standard form "Historical Property
6 Contract" containing all required provisions specified by this section and state law. Any modifications
7 to the City's standard form contract made by the applicant shall be subject to approval by the City
8 Attorney prior to consideration by the Historic Preservation Commission and the Board of Supervisors.

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10 Section 6. The San Francisco Administrative Code is hereby amended by adding
11 Section 71.7, to read as follows:

12 SEC 71.7. DEPARTMENTAL MONITORING REPORT.

13 On March 31, 2013 and every three years thereafter, the Assessor-Recorder and the Planning
14 Department shall submit a joint report to the Board of Supervisors and the Historic Preservation
15 Commission providing the Departments' analysis of the historical property contract (Mills Act)
16 program. The report shall be calendared for hearing before the Board of Supervisors and the Historic
17 Preservation Commission.

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19 Section 7. The San Francisco Planning Code is hereby amended by amending Section
20 356, to read as follows:

21 SEC. 356. PRESERVATION APPLICATIONS. (Article 10).

22 (a) Landmark: \$267.00.

23 (b) Amendment, Rescission or Designation of Historical District: \$1,069.00 plus time
24 and materials in excess of initial fee as set forth in Section 350c. The Planning Director or
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1 his/her designee may waive time and material charges for the designation of a Historical
2 District to encourage Citywide preservation activities.

3 (c) Certificate of Appropriateness: \$314.00 for applications with an estimated
4 construction cost less than \$1,000.00; \$1,252.00 for applications with an estimated
5 construction less than \$20,000.00, \$5,793.00 for applications with an estimated construction
6 value \$20,000.00 and more, plus time and materials in excess of initial fee as set forth in
7 Section 350(c). The initial fee amount is not to exceed 50% of the construction cost.

8 (d) Determination that a Building is a Compatible Rehabilitation or a Compatible
9 Replacement Building, Pursuant to Section 309 or 1109: Same as for Conditional Use
10 (Section 352(a)).

11 (e) Processing and Administering an Application for a Historical Properties Contract
12 Under the California Mills Act, California Government Code Sections 50280 - 50290:
13 ~~\$18,310.00~~ 5,000.00 for commercial properties and ~~\$9,159.00~~ 2,500.00 for residential properties.

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15 Section 8. Effective Date. This ordinance shall become effective 30 days from the
16 date of passage.

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18 Section 9. In enacting this Ordinance, the Board intends to amend only those words,
19 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
20 or any other constituent part of the Administrative Code or Planning Code that are explicitly
21 shown in this legislation as additions, deletions, Board amendment additions, and Board
22 amendment deletions in accordance with the "Note" that appears under the official title of the
23 legislation.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 Marlena G. Byrne
5 Deputy City Attorney
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