

ORDINANCE NO. 9425 (N.S.)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY  
ADMINISTRATIVE CODE, RELATING TO ENACTMENT OF MILLS ACT CONTRACTS  
FOR PROPERTY TAX RELIEF AND  
FOR THE PRESERVATION OF HISTORIC PROPERTIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that as a matter of public policy, the identification, designation, preservation, enhancement, perpetuation and use of improvements, buildings and structures within the unincorporated area of San Diego County that reflects special elements of the County's architectural, artistic, cultural, education, economic, social, political, engineering, military history or other heritage is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to provide incentives to increase local reinvestment and take advantage of historical preservation opportunities.

Section 2. Sections 88.6 through 88.19 are hereby added to the San Diego County Administrative Code, to read as follows:

SEC. 88.6. CONTRACTS TO RESTRICT USE OF QUALIFIED HISTORICAL PROPERTY.

Upon the application of an owner or the agent of an owner of any qualified historical property, the Board of Supervisors may contract with the owner to restrict the use of the property for its preservation, restoration and rehabilitation as set forth in Section 88.7 to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 88.8 and 88.12.

SEC. 88.7. QUALIFIED HISTORICAL PROPERTY.

"Qualified historical property" for purposes of this chapter, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (a) The property is listed in the National Register of Historic Places or located in a registered historic district, as defined in Title 26 of the Code of Federal Regulations.
- (b) The property is listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

#### SEC. 88.8. REQUIRED CONTRACT PROVISION.

Any contract entered into under this article shall contain the following provisions:

- (a) The term of the contract shall be for a minimum period of 10 years.
- (b) Where applicable, the contract shall provide the following:
  - (1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.
  - (2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Planning and Land Use, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary to determine the owner's compliance with the contract.
  - (3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.
- (c) The owner or agent of an owner shall provide written notice of the contract to the Office of Historic Preservation within six months of entering into the contract.

#### SEC.88.9. APPLICATION PROCEDURE.

Applications to San Diego County shall be initially evaluated and reviewed by the San Diego County Historic Site Board. The Historic Site Board shall hold a public hearing on every application for a Historic Preservation Contract. The public hearing shall be scheduled for a date not less than 10 days but not more than 90 days from the date the application is filed. After the hearing, the Historic Site Board shall recommend to the Director of Planning and Land Use that the application be denied, granted in whole or in part, or modified subject to such conditions as it deems appropriate. The Director of Planning and Land Use shall enter into historical property contracts if all of the conditions of this Ordinance are met. The Director of Planning and Land Use shall be responsible for assuring performance of the Historical Preservation Contracts including contract administration, extension, cancellation, and enforcement.

SEC. 88.10. APPEAL RIGHTS.

The decision of the Director of Planning and Land Use may be appealed to the Board of Supervisors within ten days. Hearings before the Board of Supervisors shall be scheduled by the Clerk of the Board of Supervisors for a date not less than 10 days but not more than 90 days from the date the appeal is filed.

SEC. 88.11. FEES TO BE PAID OWNER.

As a condition of entering into the Historic Preservation Contract, the property owner shall pay an application and processing fee of \$300 to the County of San Diego, which is the reasonable cost of administrating the program. Said fee must be paid prior to processing the application.

SEC. 88.12. EXTENSION OR NON-RENEWAL OF CONTRACT; RECORDATION AND NOTICE OF CONTRACT.

(a) Each contract shall provide that 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 notice of nonrenewal is given as provided in this section. If the property owner or the County desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the County at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the County of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The County may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the County or the owner serves notice of intent in any year not to renew the contract, 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, as the case may be.

(d) The owner shall furnish the County with any information the County shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after the County enters into a contract with an owner pursuant to this article, the Clerk of the Board of Supervisors shall record with the County Recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

SEC. 88.13. CANCELLATION OF CONTRACT FOR OWNERS' BREACH OF CONDITIONS.

The County may cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The County may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

**SEC. 88.14. NOTICE AND HEARING BEFORE CANCELLATION OF CONTRACT.**

No contract shall be canceled under Section 88.13 until after the County has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of the qualified historic property and shall be published pursuant to California Government Code Sections 6060 and 6061.

**SEC. 88.15. CANCELLATION FEE.**

(a) If a contract is canceled under Section 88.13 the owner shall pay a cancellation fee equal to 12 1/2 percent of the current fair market value of the property, as determined by the Assessor as though the property were free of the contractual restriction. (Gov. Code, § 50286.)

(b) The cancellation fee shall be paid to the Auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

**SEC. 88.16. ACTION TO ENFORCE CONTRACT.**

As an alternative to cancellation of the contract for breach of any condition, the county, or any landowner may bring any action in court necessary to enforce a contract including, but not limited to, an action to enforce the contract by specific performance or injunction.

**SEC. 88.17. NULLIFICATION OF CONTRACT ON ACQUISITION OF PROPERTY BY EMINENT DOMAIN.**

In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the Board of Supervisors to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 88.15. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

SEC. 88.18. RIGHTS OF CITY UPON ANNEXATION OF RESTRICTED PROPERTY.

In the event that property restricted by a contract with San Diego County under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

SEC. 88.19. CONSULTATION.

The Board of Supervisors and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

Section 3. This Ordinance shall take effect and be in force 30 days after its passage, and before the expiration of 15 days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 16th day of January, 2002.