

ORDINANCE NO. 04- 257

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING THE LOS ALTOS MUNICIPAL CODE BY AMENDING CHAPTER 12.44
OF TITLE 12 PERTAINING TO HISTORICAL PRESERVATION**

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: The following Chapter of Title 12 of the Los Altos Municipal Code entitled "Historical Preservation" is hereby amended to read as follows:

**Chapter 12.44
HISTORICAL PRESERVATION**

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 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.

12.44.020 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:

- A. "Alteration" means any exterior change or modification of a designated historical landmark, a historic resource having a rating greater than 50 as described in part H of this section, or any property within an historic district, but not limited to, exterior changes to or modifications of structure, architectural details or visual characteristics, grading, surface materials, the addition of new structures, removal or alteration of natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, walls, fences, steps or gates affecting the exterior visual qualities of the property, but does not include painting, ordinary maintenance and landscaping.
- B. "Designated historic district" means a distinct section of the city, specifically defined in terms of geographical boundaries, designated as an historic district pursuant to this chapter.

C. "Designated historic landmark" means a building, improvement, structure, natural feature, site or area of land under single or common ownership, designated as an historic landmark pursuant to this chapter.

D. "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.

E. "Historical commission" means the historical preservation commission established pursuant to this chapter and "Commissioner" means a member of the historical commission.

F. "Commission staff" means the staff liaison assigned to the Historical Commission.

G. "Historic resource" means any public or private property designated by the city, pursuant to this chapter, as an historic landmark or historic district, and those properties listed on the city's historical resources inventory.

H. "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. A property may be listed on the historical resources inventory without being designated pursuant to this chapter as an historic landmark or historic district. Properties listed on the historic resources inventory that are not designated as an historic landmark or historic district, are classified as follows:

1. "Landmark eligible" meaning that the property has a historic resources inventory rating of 85-100 points.

2. "Historically important" meaning that the property has a historic resources inventory rating of 60-84 points.

3. "Historically significant" meaning that the property has a historic resources inventory rating of 50-59 points.

4. "Contributing" meaning that the property has a historic resources inventory rating of 0-49 points.

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

J. "Preservation" means identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

12.44.030 Criteria for designation.

The historical commission may recommend to the city council the designation of a proposed historic landmark or historic district if it satisfies one part from each of the three criteria listed below:

A. It should have achieved its significance more than fifty (50) years ago. (Exceptions are 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. It should fit into at least one of the following categories:

1. It has character, interest, or value as part of the development of, and/or its exemplification of, the cultural, educational, economic, agricultural, social or historical heritage of the city;

2. It is identified with persons or events significant in local, state, or national history;

3. It embodies distinctive characteristics of a style, type, period, or method of architecture or construction, or is a valuable example of the use of indigenous materials or craftsmanship;

4. It is representative of a notable work of a builder, designer, or architect;

5. It has a unique location or singular physical characteristics, whether manmade or natural, representing an established or familiar visual feature of a neighborhood, community, or the city; or it

has a relationship to any other landmark, and its preservation is essential to the integrity of that landmark;

6. The property has the potential for yielding archeological information;

7. It embodies or contributes to a unique natural setting or environment constituting a distinct area or district within the city having special character or special historical, architectural or aesthetic interest or value;

C. It should not be altered significantly, so that its integrity is not compromised.

12.44.040 Applications for designation.

A. Applications for designation as an historic landmark or historic district may be submitted to the historical commission by any of the following:

1. The owner or owner of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as an historic landmark;

2. The owners of at least twenty-five (25) percent of the frontage of all recorded lots abutting a specific geographic section of the city, requesting designation as an historic district;

3. The owners of at least twenty-five (25) percent of the area of all recorded lots within a specific geographic section of the city, requesting designation of the entire section as an historic district.

B. The city council or the planning commission may also, by resolution or motion, refer a proposed designation to the historical commission for its recommendation and the historical commission may consider a proposed designation upon its own initiative.

12.44.050 Historic landmark designation.

A. The historical commission shall conduct a study of the proposed designation, based upon such information or documentation as it may require from the applicant, the commission staff, or from other available sources. The commission may, in its discretion, receive written or verbal comments from any persons having an interest in the proposal or any information relevant thereto.

B. The commission shall conduct a public hearing on the proposal. Notice of the time, place, and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication at least once in a newspaper of general circulation within the city and by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties. Such written notice shall contain a complete description of the proposed designation and shall advise the property owners that written objections to the proposal may be filed with the historical commission in addition to oral comments at the hearing.

C. Based on its findings to the following issues, the commission shall render a written report of its recommendation to the city council within a reasonable time:

1. That the proposed landmark has significant historical, architectural, cultural, or aesthetic interest or value; and

2. That the approval or modified approval of the application is consistent with the purposes and criteria of this chapter.

The report shall be accompanied by all of the relevant information and documentation and either shall recommend the designation as originally proposed, recommend a modified designation, or recommend that the proposed designation be rejected. The report shall set forth in detail the reasons for the historical commission's decision and the information and documentation relied upon in support thereof. A copy of the report shall be sent to the property owner or owners.

D. The city council shall consider the report at its next available regular meeting and determine whether or not to accept the historical commission's recommendations. 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. The city must notify the owner and all adjacent property owners of the date on which the city council will consider this report.

F. In the event a designating resolution is adopted by the city council, such resolution shall become effective immediately following adoption thereof and the designated property shall thereafter 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. After approval of a designating resolution, the secretary of the commission shall notify the property owner by mail, outlining the basis for the designation and the regulations which result from such designation. The secretary shall also cause such resolution to be recorded in the office of the county recorder.

G. Adoption of a designating resolution shall be based upon a finding by the city council that the designated property 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, and satisfies the criteria set forth in this article.

H. Until final action has been taken by the city council on the proposed designation as an historic landmark no building, alteration, grading, demolition or tree removal permit shall be issued for any work to be performed upon or within the property which is the subject of the proposed designation, unless approved by the historical commission or the city council. This restriction shall become effective as of the time the study is initiated, and shall extend until the designating resolution becomes effective.

12.44.060 Historic district designation.

A. Following the same procedures set forth in Section 12.44.050A, B, and C, the historical commission shall conduct a study of, and hold a public hearing on any proposed historic district and forward to the city council and to the planning commission a report and recommendations, together with the information and documentation pertaining thereto.

B. The planning commission shall conduct a public hearing on the proposed designation within sixty (60) days after receipt of the historical commission's report. Notice of the public hearing shall be given in the manner provided in this chapter.

C. The planning commission either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the historical commission or the planning commission, or both, or recommend that the proposed designation be rejected. If the planning commission recommends approval or modified approval of the designation, it shall instruct the commission staff to prepare, and shall approve, a proposed form of ordinance for adoption by the city council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the planning commission deems reasonably necessary for the conservation, enhancement and preservation thereof.

D. The recommendations of the planning commission, together with the report and recommendations of the historical commission and the information and documentation pertaining thereto, and the proposed ordinance, if any, shall be transmitted to the city council and considered at its next available regular meeting.

E. The city council shall determine whether the proposed historic district should be considered for designation as an historic resource, and adopt a resolution initiating final designation proceedings. Such resolution shall schedule a public hearing on the proposed designation to be conducted within sixty (60) days. Notice of the public hearing shall be given in the manner provided in this chapter.

The resolution may further provide that during the pendency of the final designation proceedings, no building, alteration, grading, demolition or tree removal permit shall be issued for any work to be

performed upon or within the properties which are the subject of the proposed designation, or may be issued only upon specified conditions or under specified circumstances.

F. At the conclusion of the public hearing, but in no event later than sixty (60) days from the date set in the resolution for the initial public hearing, the city council either shall adopt an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.

G. In the event a designating ordinance is adopted by the city council, such ordinance shall become effective thirty (30) days following adoption thereof and the designated property shall thereafter be subject to the regulations set forth in this chapter and such further regulations or controls as may be specified in the designating ordinance.

H. Adoption of a designating ordinance shall be based upon a finding by the city council that the designated property 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, and satisfies one or more of the criteria set forth in this chapter.

12.44.070 Notice of public hearings.

A. Notice of the time, place and purpose of public hearings conducted by the city council, the planning commission, and the historical commission pursuant to this chapter shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mailing such notice as follows:

1. In the case of a proposed historic landmark, notice shall be given as set forth in Section 12.44.050B of this chapter.

2. In the case of a proposed historic district, notice shall be mailed to all persons shown on the latest available equalized assessed roll of the county as owning any property within the boundaries of the proposed district. Notice of the public hearing shall also be published once in a newspaper having general circulation in the city not later than ten (10) days prior to the date of the hearing.

B. Failure to send any notice by mail to any property owner whose name and address is not a matter of public record shall not invalidate any proceedings in connection with a proposed designation. The city council, planning commission or historical commission may, but shall not be obligated to, give such other notices as they deem appropriate or desirable.

12.44.080 Notice of designation.

A. Following adoption by the city council of an ordinance designating a historic landmark or historic district, the commission staff shall send notice of the designation, together with a copy of the ordinance, to the owner or owners of the designated historic landmark, or to the owners of all property within a designated historic district. The notice shall inform such owners that the designated property will be added to the Los Altos historical resources inventory and may be eligible for certain privileges and benefits under local, state or federal law. The notice shall include a statement of the regulations and restrictions upon the designated property. The city council also shall send notice of the designation to:

1. The historical commission;
2. The planning commission;
3. Any agency or department of the city requesting such notice or affected by the designation;
4. The Santa Clara county historical heritage commission;
5. The California state historic preservation officer;
6. The Los Altos town crier.

B. Notice of the designation and the complete legal description of the designated property shall be recorded in the office of the recorder for the county.

12.44.090 Termination of designation.

The only legitimate reason for terminating the designation is when the resource no longer meets the criteria due to loss of integrity. When a landmark is terminated, the building department shall be notified, and the appropriate cancellation notice of previously recorded notice of designation shall be recorded in the office of the county recorder.

12.44.100 Permit or advisory review required.

A. It is unlawful for any person to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature of a designated historic landmark or landmark eligible structure or to construct, alter, demolish, remove or relocate any building, improvement, other structure or natural feature upon any property located within a designated historic district, or to place, erect, alter or relocate any sign upon or within a designated historic landmark or historic district, without first obtaining a written permit to do so in the manner provided in this article. Approval shall be based upon conformance with the Secretary of the interior's standards for preservation projects, the state historic building code, and the designating ordinance.

B. It is unlawful for any person to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature of any historically important or historically significant structure without first obtaining review by the historical commission. The historical commission's review will take into account whether or not the proposed work adversely affects the character or integrity of the historically important or historically significant structure. The historical commission's review and recommendation to the planning director, or planning commission, or city council, shall be advisory only.

12.44.110 Applications for permit or advisory review.

Applications for permits or for advisory project review, on forms prescribed by the historical commission, shall be submitted to the planning director, who shall forward the application to the historical commission for review and comment. Applications shall include supporting data as set forth in section 12.44.120 and shall be acted on as set forth in section 12.44.130 of this chapter.

12.44.120 Supporting data.

The application shall include the following data:

- A. Documentation establishing ownership of the designated property by the applicant for the permit;
- B. A clear statement of the proposed work;
- C. A site plan showing all existing buildings, structures, trees over six (6) inches in diameter, property lines, easements and the proposed work;
- D. Detailed plans showing both the existing and proposed exterior elevations, materials and grading;
- E. Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials;
- F. Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation;
- G. Where the application is for demolition, a detailed statement of the necessity for demolition together with photographs of the structure to be demolished;
- H. Such other information or documents as may be requested by the historical commission.

12.44.130 Historical commission action.

The historical commission shall complete its review and issue a recommendation to the planning director within forty-five (45) days after receipt of the application and all supporting data. Unless legally required, there shall be no notice, posting or publication requirements for action on the application, but all decisions shall be made at regular or noticed special meetings of the historical commission. The historical commission's recommendation shall be in writing and shall state the reasons relied upon in support thereof. Upon receipt of the historical commission's recommendations, the planning director shall forward a copy thereof to the applicant.

12.44.140 Issuance of permit.

If the historical commission recommends issuance of the permit requested in the application, or issuance of such permit subject to conditions, the planning director shall proceed to issue the permit in accordance with the recommendation after the expiration of ten (10) days from the date the recommendation is delivered to the planning director; provided, that no appeal has been filed during such time and provided further, that no other approval under this code is required for issuance of such permit. In the event the historical commission recommends denial of the application, the planning director shall notify the applicant that the requested permit will not be granted.

12.44.150 Appeal.

- A. Any recommendation issued by the historical commission with respect to the granting or denial of a permit may be appealed by the applicant or any interested person to the planning commission. The appeal shall be taken by filing with the secretary of the planning commission a written notice thereof within ten (10) days from the date the historical commission delivers its recommendation to the planning director. The notice of appeal shall be signed by the appellant and shall set forth all the grounds for the appeal and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by the council by resolution. Upon receipt of the notice of appeal and filing fee, the secretary of the planning commission shall set the appeal for hearing at the next available regular meeting of the planning commission. The planning commission shall conduct a hearing de novo on the appeal and may adopt, reject or modify the recommendations of the historical commission. Only the grounds specified in the notice of appeal shall be considered.
- B. The decision of the planning commission may be further appealed to the city council by either the applicant or any interested person, in accordance with the procedure set forth in Title 1, Section 1.12.010 of the Los Altos Municipal Code.

12.44.160 Criteria for issuance of permit.

The planning director, on the recommendation of the historical commission, or planning commission or city council on appeal, shall authorize issuance of a permit, or a conditional permit, if and only if, it is determined that:

- A. The proposed work is consistent with the purposes and objectives of this chapter; or
- B. The proposed work does not adversely affect the character or integrity of the designated historic landmark or historic district; or
- C. In the case of construction of a new building, structure or other improvement upon or within a designated historic landmark or historic district, the exterior of such improvement will not adversely affect and will be compatible with the external appearance of the existing landmark or district.

12.44.170 Hardship.

Notwithstanding the criteria of Article 3 of this chapter, the planning director, on the recommendation of the historical 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 designated historic landmark or property located within a designated historic district, if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will work 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 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.

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 to the planning commission and city council pursuant to this chapter.

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 designated historic landmark or property located within a designated historic district 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 designated historic landmark or property located within any designated historic district 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.

12.44.200 Duty to keep in good repair.

A. The owner, occupant, or the person in actual charge of a designated historic landmark or property located within a designated historic district shall keep and maintain in good condition and repair all exterior portions thereof, all interior portions thereof when subject to special regulation or control as specified in the designating ordinance or permit, 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 Building Official to enforce this section.

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.

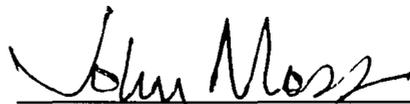
SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on March 9, 2004 and was thereafter, at a regular meeting held on March 23, 2004 passed and adopted by the following vote:

Ayes: Cole, Packard, Casas, Lear, Moss
Noes: None
Absent: None



John Moss, Mayor

Attest:



Susan Kitchens, City Clerk