

# ***MILLS ACT PROGRAM GUIDE SANTA CRUZ COUNTY***



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# ***Introduction***

The Mills Act (state sponsored legislation enacted in 1972) is a self-directed, economic incentive program for owners of historic buildings that are listed in the National Register of Historic Places or on a state, county, or city official register. The Mills Act is the single most important economic incentive program available in California for private property owners of qualified historic buildings. It is also applicable to income producing properties. A Mills Act program must comply with two California State Codes: California Government Code, Article 12, Sections 50280-50290 and California Revenue and Taxation Code, Article 1.9, Sections 439-439.4.

Under the program in Santra Cruz County, property owners who own designated historic properties ranked National Register 1 (NR-1) thru National Register 4 (NR-4) may receive a reduction in local property taxes in exchange for their promise to actively participate in restoring, rehabilitating, repairing and preserving their properties. Participants enter into a perpetual 10-year contract with the County. This program likely will have no benefit to those who have benefited from the low tax rate related to the 1978 Proposition 13.<sup>1</sup>

Contracts are automatically renewed each year and will be transferred to new owners when the property is sold.

City, county, or state officials may periodically inspect properties to ensure proper maintenance.

The County of Santa Cruz will apply the Mills Act for residential properties with a market value not exceeding \$3,000,000 and commercial properties not exceeding \$5,000,000. These thresholds may change over time to reflect changed property valuation.

Penalties may be imposed for breach of contract or failure to maintain the historic property.

For properties under a valid Mills Act contract, the county assessor's office will value the property based on a capitalization of income method as outlined in Revenue and Taxation Code 439.2 and will enroll the lower of that value, the Proposition 13 value, or the market value of the property for each particular lien date. Mills Act participants may realize property tax savings, which will vary from year to year, depending on property value, net operating income, and other variables.

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<sup>1</sup> Proposition 13 provides three very important functions in property tax assessments in California. Under Prop 13, all real property has established base year values, a restricted rate of increase on assessments of no greater than 2% each year, and a limit on property taxes to 1% of the assessed value (plus additional voter-approved taxes).

# ***Mills Act Program Requirements***

## ***State Requirements***

1. The property must be privately owned, not exempt from property taxation and either listed in the National Register of Historic Places, or registered as a historic district, or listed in a state, city or county official register of historical, or architecturally significant sites, places or landmarks.
2. The contract must require that the property owner preserve the property and when necessary, restore and rehabilitate the property throughout the term of the contract.
3. The term of the contract shall be a minimum of ten years. One year will automatically be added to the initial term of the contract each year on the contract anniversary date, unless a jurisdiction or property owner files a notice of non-renewal 60 or 90 days prior to the anniversary, respectively. If a notice of non-renewal is duly filed, the existing contract shall remain in effect for the balance of the period remaining since the execution or last renewal of the contract.
4. No later than 20 days after a jurisdiction enters into a contract, the clerk of the legislative body shall record a copy of the contract with the county recorder.
5. The property owner must provide written notice of the contract to the State Office of Historic Preservation with six months of entering into the contract.
6. All work must comply with the rules and regulations of the State 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 Historic Building Code.
7. The contract must require periodic interior and exterior inspections by the County's Historic Resources Planner to determine the property owner's compliance with the contract.
8. The contract must be binding upon successive property owners for the term of the contract. Successive property owners shall have the same rights and obligations under the contract as the owner who entered the contract.
9. During the term of the contract, the county assessor shall value the property by capitalization of income method, as prescribed in Revenue and Taxation Code 439.2.
10. A cancellation fee of 12.5% of the full market value of the property must be assessed upon the property owner if the contract is canceled for breach of the provisions of the contract or if the property is altered or allowed to deteriorate so that it is no longer considered a significant historic structure.

## **County Requirements**

**Qualifying Structures.** To qualify for the program, a structure must have an NR-1, -2, -3, and -4 rating; it may be residential or commercial structure. In addition, no more than 20 properties will be accommodated in the program unless deemed otherwise by the Board of Supervisors.

The County of Santa Cruz will apply the Mills Act for residential properties with a market value not exceeding \$3,000,000 and commercial properties not exceeding \$5,000,000. These thresholds may change over time to reflect changed property valuation.

**Qualifying Projects.** A wide range of projects may be considered for inclusion in a Mills Act contract (see “List of Suggested Projects”). However, to qualify for the program, each project must meet the following requirements:

- a. All aspects of the project including, but not limited to, its design, materials, and techniques must comply with the rules and regulations of the United States Secretary of the Interior’s Standards for Rehabilitation; the State Office of Historic Preservation of the Department of Parks and Recreation; the State Historic Building Code; and the County Code, and Historic Preservation Ordinance.
- b. Projects required to ensure the structural integrity of a structure (e.g., seismic retrofitting, electrical change out or termite treatment) shall be completed prior to the undertaking of projects involving other elements of the structure.
- c. For projects involving removable features (e.g., light fixtures, fireplace mantelpieces or built-in cabinets), the features shall remain attached to the structure if they are original to the structure, or subsequently added in later years, and over 50 years of age, with the purpose of establishing, and, or enhancing the historical integrity of the building.

**Non-Qualifying Projects.** Additions (e.g., room or patio additions), the relocation of structures, and projects that fail to meet all of the requirements listed above under **Qualifying Projects**, do not qualify for the program.

**Certificates of Appropriateness.** Prior to Board of Supervisor approval of a Mills Act contract, the Historical Resources Planner shall approve a *Restoration, Rehabilitation and Preservation Plan* that includes a schedule of projects<sup>2</sup> to be completed during the first ten years following execution of the contract.

**Expenditure of Tax Savings.** The property tax saving realized during the first ten years following execution of the contract shall be spent on completing the schedule of projects included in the approved *Restoration, Rehabilitation and Preservation Plan*. The estimated cost of completing the schedule of projects shall be equal to or exceed the estimated property tax savings realized during this ten-year period. Subsequent property tax savings shall be spent to maintain and preserve the property and when necessary, restore and rehabilitate the property throughout the term of the contract.

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<sup>2</sup> The schedule of projects can be based on the List of Potential Projects contained herein, and incorporated by the applicant in their *Mills Act Contract Application Submittal Requirements* to be submitted to the County.

**Project Completion.** The specific projects included in the approved *Rehabilitation/Restoration and Maintenance Plan* shall be completed during the first ten years following contract execution, as outlined in the schedule of projects. Throughout the term of the contract, maintenance, and preservation projects and when necessary, restoration and rehabilitation projects, shall be completed as needed to protect the structural integrity as well as the historic and aesthetic value of the property. Projects not included in the approved *Rehabilitation/Restoration and Maintenance Plan* shall be subject to the approval of the County's Historic Resources Planner.

On a yearly basis, County staff shall inspect the property to evaluate the status of approved projects and the general condition of the property. Inspections of the interior of structures shall be required when the *Rehabilitation/Restoration and Maintenance Plan* includes interior work.

**Length of Mills Act Contract.** The term of a contract shall be a minimum of ten years. One year will automatically be added to the initial term of the contract each year on the anniversary date of the contract, unless the County or property owner files a notice of non-renewal 60 or 90 days prior to the anniversary, respectively. If a notice of non-renewal is duly filed, the existing contract shall remain in effect for the balance of the period remaining since the execution or last renewal of the contract.

**Findings.** To grant approval of a Mills Act contract, the Board of Supervisors must make the following findings:

1. That based on information contained in the program application including, but not limited to, the *Rehabilitation/Restoration and Maintenance Plan (in effect, a schedule of projects)*; cost estimates; estimated tax savings to the property owner; and other related information, the approval of the Mills Act contract will serve to compensate the County for the reduction in property taxes received.
2. That the *Rehabilitation/Restoration and Maintenance Plan* will extend the life of the structure(s), protect the historic and aesthetic value of the property, and comply with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation; the United States Secretary of the Interior's Standards for Rehabilitation; the State Historic Building Code; the County Code; and the Historic Preservation Ordinance.

## ***Eligible Improvements***

### **Projects may include but are not limited to:**

- Access Modifications – Exterior Access
- Modifications – Interior Accessory
- Structure Repair or Replace Annual Maintenance & Repairs Appliance Vent
- Architectural – Remove Non-historic Feature & Restore to Original
- Architectural Trim – Repair
- Architectural Trim – Replace
- Architectural Trim – Install New
- Balcony/ Decks – New Railings
- Balcony/ Decks – Repair or Replace
- Basement – Access – Repair or Replace to Code
- Basement – New or Rebuild Cabinets – New Built-in Bathroom Cabinets – New Built-in Kitchen Cabinets – New Built-in Other
- Carpentry – Remove window & reframe shower including Siding/Caulking
- Chimney – Inspect and Clean
- Chimney – New
- Chimney – Rebuild or Repair Code Repair Item
- Column – Replace or Rebuild
- Corbels/ Structural Brackets Replace or Repair
- Door – Repair or Replace Screen Door
- Door – Hardware
- Door – New Basement Hatch Cover and Base
- Door – Repair
- Door – Replacement
- Drain for Deck – Install & or Repair
- Drainage Protection or Correction
- Dry-Rot Remove, Repair and or Replace
- Electrical – Rewire or Install New Outlets
- Electrical – Complete Rewire and Service Upgrade
- Electrical – Ground & Service Entry
- Electrical – Install New Circuits
- Electrical – Lighting Fixtures
- Electrical – New Service Lines to Garage
- Electrical – Security Lighting and Alarm Electrical – New Outlets
- Fence – Repair or New
- Flashing
- Floor Furnace – Remove or Restore floor
- Flooring – Carpet
- Flooring – Repair
- Flooring – Repair Wood Floors
- Flooring – Replacement
- Foundation – Bolting and Seismic Work
- Foundation – New
- Foundation – Repair
- Gable or Attic – Re-screening
- Garage Door
- Gutters & Downspouts
- House Relocation
- HVAC – Complete New System
- HVAC – Maintenance & Replacement/Plumbing Service & Painting
- Insulation – Walls – Blown-in
- Insulation – Attic
- Interior Trim – Refinish
- Kitchen – New Counters
- Masonry – New
- Masonry – Repair or Replace Tile Hearth
- Masonry – Repair or Repoint
- Masonry – Repoint Brick
- Mechanical – Air Conditioning
- Mechanical – Heating Unit
- Mechanical – Ventilation – New Kitchen/Bath Fan & Duct Work
- Mechanical – Venting & Duct
- Mechanical – Venting & Duct Work
- Minor Painting and Exterior Repairs
- Painting – Exterior
- Painting – Interior
- Painting – Removal of Lead Based Paint
- Painting – Exterior Trim
- Patio – Repair
- Plastering – Remove, Replace, or Refinish
- Plumbing – DWV, Drain, Waste & Vent
- Plumbing – Fixtures
- Plumbing – Install new supply lines
- Plumbing – Install Sump Pump & Discharge Drain
- Plumbing – Minor Repairs
- Plumbing – New Supply
- Plumbing – Service Lines

# ***Minimum Standards and Conditions for Maintenance, Use and Preservation***

## ***Secretary of the Interior's Standards for Rehabilitation***

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken. Potential impacts to archaeological resources shall be reviewed by the County. Mitigations will be promulgated in conjunction with the County.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment. New work requires review and approval of the county.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## ***Maintenance***

The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

1. Façades that may fall and injure members of the public or damage property;
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
4. Deteriorated, crumbling or loose exterior plaster;
5. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
6. Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
7. Any fault or defect in the building which renders it structurally unsafe or not properly watertight.

## ***Mills Act Program Property Inspection Information***

### **Initial Inspection**

If you are selected to participate in the Mills Act, County staff will complete an initial inspection of your property to document the current condition of the property. Photographs will be attached to the Historic Property Preservation Agreement (Mills Act Contract). The inspection will be scheduled at a time that is convenient for you and will include a walk-through of the residence and any accessory buildings as well as a general inspection of the property.

### **Periodic Inspection**

County staff will likely inspect your property annually following submittal of your Annual Report to ensure that work has been completed in accordance with the Ten-Year Rehabilitation Plan and all County requirements. Exterior work that is easily visible from the street may be inspected without an appointment. Interior work will require an inspection appointment. Photographs will be taken as part of the inspection for inclusion in your file.

## ***Application Review Process***

### **1. Application Submittal**

Planning Division staff (i.e., Historic Resources Planner) receives the Mills Act program application and application processing fee.

### **2. Review for Completeness**

Planning staff reviews all submitted application information for accuracy and completeness within 30 days and may schedule a meeting with the applicant to discuss details of the proposed Restoration, Rehabilitation & Preservation Plan. When appropriate, staff deems the Mills Act program application complete.

### **3. County Assessor Review**

The County Assessor's Office will perform a calculation of the tax benefits to be received under the Mills Act program.

### **4. Site Visit**

Planning staff arranges with applicant a time to visit the historic property site to review conditions.

### **5. Application Approval**

Planning staff schedules the application for Board of Supervisors consideration to approve the

contract. Staff prepares a report, including a draft Mills Act contract, with conditions if necessary.

#### **6. Contract Execution and Recordation**

If approved by the Board of Supervisors, the County executes the contract and, within 20 days of approval, records it with the County Recorder's Office.

#### **7. State Office of Historic Preservation Review**

Within six months of Mills Act contract recordation with the County Recorder's Office, property owners are required to provide written notice to the State Office of Historic Preservation of the California Department of Parks and Recreation. The notification must state that the property owner has entered into a Mills Act contract with the County. A copy of the notice must also be mailed to the Santa Cruz County Planning Director.

## ***Appendices***

(Each of these documents are available via link)

1. [Sample Contract \(w/exhibits: \(A\) Legal Description Including a Copy Of The Assessor's Parcel Map, \(B\) DPR 523A Form, and \(C\) Restoration, Rehabilitation And Preservation Plan](#)
2. [Mills Act Application](#)
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