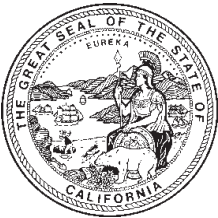


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California Office of Historic Preservation  
Department of Parks & Recreation

*Technical Assistance Series*

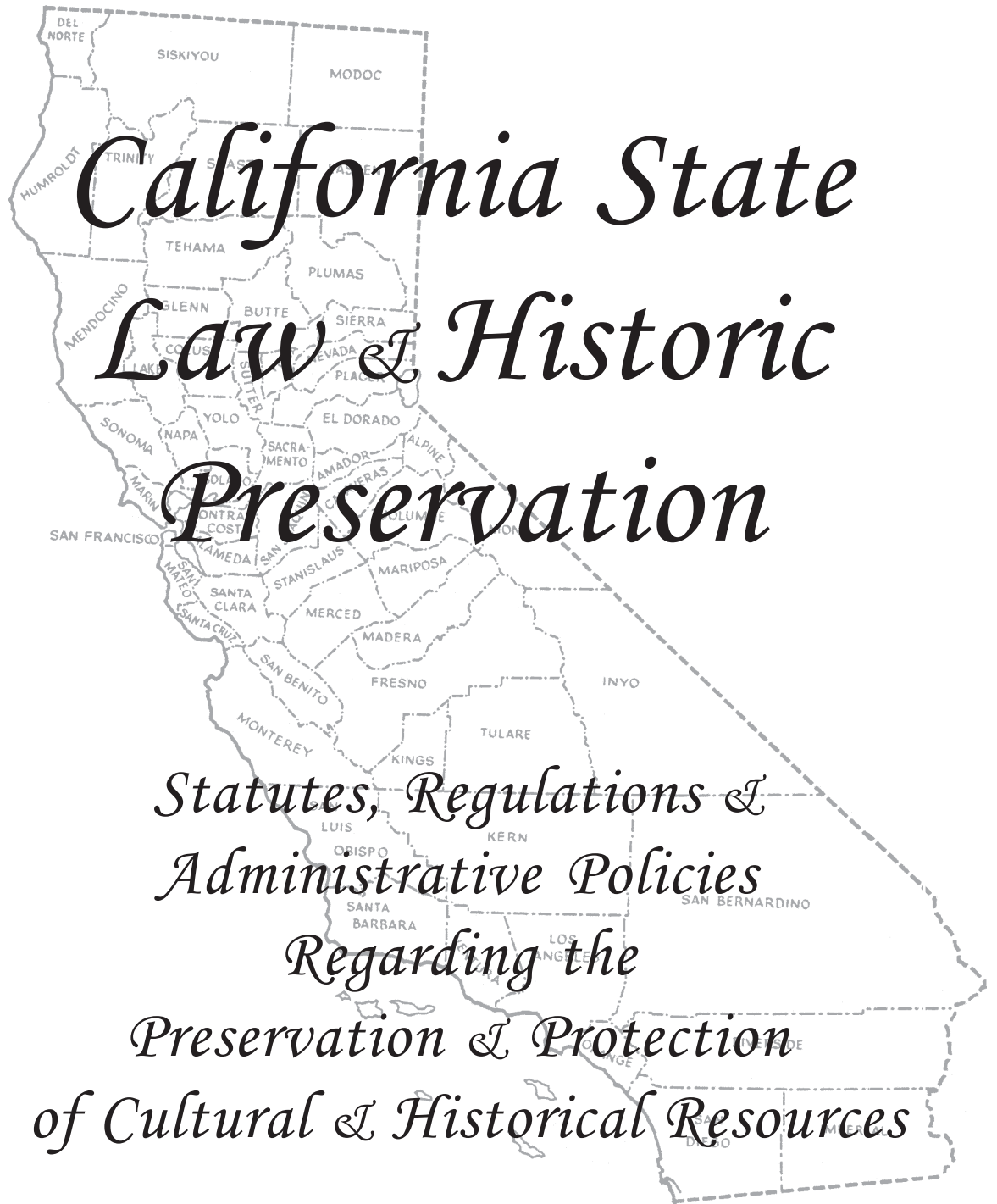


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# INTRODUCTION

***California State Law and Historic Preservation***, a publication of the State Office of Historic Preservation (OHP), is a compilation of state statutes and regulations that govern the identification, designation and protection of the State of California's significant historical resources. ***California State Law and Historic Preservation*** is organized by statutes (code and section number), followed by regulations (title and section number), followed by advisory guidance and administrative policies. A topical index allows users to access information on specific topics within and among codes. The State Office of Historic Preservation is responsible for administering federal and state preservation programs in California and for assisting local governments and citizens in the preservation of the state's rich and diverse cultural heritage. ***California State Law and Historic Preservation*** is part of the OHP Technical Assistance Series.

The source book contains amendments through August 1999. The statutes included in this publication can be accessed on the internet at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

Information about the California Register of Historical Resources is available on OHP's website at [www.ohp.parks.ca.gov/default.asp?page\\_id=21238](http://www.ohp.parks.ca.gov/default.asp?page_id=21238).

The California Environmental Quality Act (CEQA) and the CEQA Guidelines are found at <http://ceres.ca.gov/ceqa>. The CERES website also provides additional technical information regarding CEQA, including the Office of Planning and Research technical advice manuals *CEQA and Historical Resources* and *CEQA and Archeological Resources*.

*The Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* is available online at [www.cr.nps.gov/hps/tps/standguide/index.htm](http://www.cr.nps.gov/hps/tps/standguide/index.htm)

Information regarding the State Historic Building Code can be found at [www.dsa.dgs.ca.gov/StateHistoricalBuildingSafetyBoard/default.htm](http://www.dsa.dgs.ca.gov/StateHistoricalBuildingSafetyBoard/default.htm) .

# STATUTES

# Public Resources Code

## Historical Resources

### **5020.** State Historical Resources and Commission.

The Historical Landmarks Advisory Committee is continued in existence as the State Historical Resources Commission. Any reference in any law to the Historical Landmarks Advisory Committee shall be deemed to refer to the State Historical Resources Commission.

### **5020.1.** Definitions.

As used in this article:

- (a) "California Register" means the California Register of Historical Resources.
- (b) "Certified local government" means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.) as amended, pursuant to Section 101(c) of that act and the regulations adopted under the act which are set forth in Part 61 (commencing with Section 61.1) of Title 36 of the Code of Federal Regulations.
- (c) "Commission" means the State Historical Resources Commission.
- (d) "Department" means the Department of Parks and Recreation.
- (e) "Director" means the Director of Parks and Recreation.
- (f) "DPR Form 523" means the Department of Parks and Recreation Historic Resources Inventory Form.
- (g) "Folklife" means traditional expressive culture shared within familial, ethnic, occupational, or regional groups and includes, but is not limited to, technical skill, language, music, oral history, ritual, pageantry, and handicraft traditions which are learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction. However, "folklife" does not include an area or a site solely on the basis that those activities took place in that area or on that site.
- (h) "Historic district" means a definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
- (i) "Historical landmark" means any historical resource which is registered as a state historical landmark pursuant to Section 5021.
- (j) "Historical resource" includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.
- (k) "Local register of historical resources" means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.
- (l) "National Register of Historic Places" means the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture as authorized by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.).
- (m) "Office" means the State Office of Historic Preservation.
- (n) "Officer" means the State Historic Preservation Officer.
- (o) "Point of historical interest" means any historical resource which is registered as a point of historical interest pursuant to Section 5021.
- (p) "State Historic Resources Inventory" means the compilation of all identified, evaluated, and determined historical resources maintained by the office and specifically those resources evaluated in historical resource surveys conducted in accordance with criteria established by

the office, formally determined eligible for, or listed in, the National Register of Historic Places, or designated as historical landmarks or points of historical interest.

(q) "Substantial adverse change" means demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired.

**5020.2.** State Historical Resources Commission; membership; qualifications; term of office.

(a) The commission consists of nine members appointed by the Governor. The director, in consultation with the State Historic Preservation Officer, shall submit to the Governor a list of persons to be considered for vacant positions on the commission.

(b) (1) Five members shall be recognized professionals in one of each of the following disciplines: history, prehistoric archaeology, historic archaeology, architectural history, and architecture. However, one individual may represent both disciplines of architecture and architectural history and one individual may represent both disciplines of prehistoric archaeology and historic archaeology.

(2) One member shall be knowledgeable in ethnic history.

(3) One member shall be knowledgeable in folklife.

(4) Two members shall represent the public or possess expertise in fields of expertise the Governor deems necessary or desirable to enable the commission to carry out its responsibilities.

(c) Members shall hold office for a term of four years.

(d) Members of the commission on January 1, 1985, shall not be disqualified from serving the remainder of their existing term by reason of the requirements of subdivision (b). However, appointments made to the commission on and after January 1, 1985, shall be made so that the requirements of paragraph (1) of subdivision (b) are satisfied at the earliest possible time.

**5020.3.** State Historical Resources Commission; meetings; chairperson, vice-chairperson; compensation.

(a) The commission shall meet at least four times per year in places it deems necessary to fulfill its responsibilities. Five members of the commission constitute a quorum.

(b) The commission shall elect annually from its members a chairperson and vice chairperson.

(c) The members of the commission may receive a salary for their services in an amount of fifty dollars (\$50) for each day, up to a maximum salary of one hundred dollars (\$100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties. Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section and, if the compensation is foregone, the member shall not have his or her retirement benefits reduced and shall not be required to be reinstated into the retirement system.

**5020.4.** State Historical Resources Commission; powers and duties.

(a) The commission shall do all of the following:

(1) Receive and evaluate applications for, and make recommendations with respect to entries on, the National Register of Historic Places to the officer.

(2) Conduct a statewide inventory and maintain comprehensive records of historical resources pursuant to federal and state law, including, but not limited to, historical landmarks and points of historical interest.

(3) Establish criteria for the recording and preservation of historical resources, and for deletions from historical registers warranted by destruction or damage of a historical resource or other change in conditions.

(4) Develop and adopt criteria for the rehabilitation of historic structures.

(5) Establish policies and guidelines in compliance with state and federal requirements for a comprehensive statewide historical resources plan which includes, but is not limited to, architecture, history, archaeology, and folklife.

(6) Develop and update annually, based upon public hearings and active public participation, the statewide historical resources plan.

(7) Make recommendations to the department, based upon the statewide historical resources plan, including the listing of historical resource projects on a priority basis.

(8) Oversee the administration of the California Register, receive and evaluate nominations to, and cause qualified resources to be listed in, the California Register, and adopt, as necessary, timely revisions of the California Register criteria and procedures as may be advisable.

(9) Recommend to the department the criteria and standards for acceptance of historical buildings, structures, sites, or places for registration as historical landmarks or points of historical interest.

(10) Receive and evaluate applications for registration of structures, sites, or places as historical landmarks or points of historical interest. The commission shall select and designate historical landmarks and points of historical interest that it determines meet the criteria in subdivision (a) of Section 5031. The commission shall maintain a register which identifies historical landmarks and points of historical interest by number and description.

(11) Make recommendations to the office with respect to a standard design and detail for the marker or plaque which may be erected or raised at registered historical landmarks or historical resources, and with respect to the use of the marker or plaque. The commission shall consult with cities and counties in developing design and placement standards. These standards shall not prevent a city or county from implementing its own standards if they meet the minimum criteria established by the commission.

(12) Recommend to the department the type of directional sign to be erected in connection with the registration of a point of historical interest. The commission shall consult with cities and counties in developing design and placement standards. These standards shall not prevent a city or county from implementing its own standards if they meet the minimum criteria established by the commission.

(13) Submit an annual report in January to the director and the Legislature giving an account of its activities, identifying unattained goals of historical resources plans and programs, and recommending needed legislation for the support of those programs. The director shall advise the commission of new and continuing plans, policy, and programs concerning statewide historical resources and shall receive and consider the views of the commission.

(14) Consult with, and consider the recommendation of, public agencies, civic groups, and citizens interested in historic preservation.

(15) Develop criteria and procedures based upon public hearings and active public participation for the selection of projects to be funded through the National Historic Preservation Fund, the California Heritage Fund, and other federal and state programs that have as their primary purpose the preservation and enhancement of historical resources.

(16) Prepare, or cause to be prepared, and recommend to the director, a budget with respect to those duties and responsibilities of the commission contained in this section. (b) The commission may adopt guidelines for the review of applications for excavation and salvage permits submitted pursuant to Section 6313 and make recommendations thereon to the State Lands Commission.

**5020.5.** State Historical Resources Commission; archeological sites.

(a) The commission shall develop criteria and methods for determining the significance of archaeological sites, for selecting the most important archaeological sites, and for determining whether the most significant archaeological sites should be preserved intact or excavated and interpreted.

(b) The commission shall develop guidelines for the reasonable and feasible collection, storage, and display of archaeological specimens.

**5020.6.** State Historic Preservation Officer.

(a) The Governor shall appoint the State Historic Preservation Officer. The director, in consultation with the commission, shall submit to the Governor a list of persons to be

considered for the position. The person appointed shall be knowledgeable about historical resources.

(b) The officer shall serve as the executive secretary of the commission and shall be the chief administrative officer of the Office of Historic Preservation in the department.

(c) The officer shall have no responsibilities other than those provided by statute, executive order, and regulation, as well as any other duties the director assigns for the preservation and enhancement of the state's historical resources.

(d) The officer, or the officer's alternate, shall serve as an ex officio member of the Historic State Capitol Commission.

**5020.7. Legislative Intent.**

The Legislature recognizes that the long-term preservation and enhancement of historical resources is dependent, to a large extent, on the good will and cooperation of the general public and of the public and private owners of those resources. Therefore, it is the intent of the Legislature that public agencies, including the commission and the office, shall endeavor to carry out their responsibilities under this article in a manner designed to elicit the cooperation of the owners of both identified and unidentified resources, to encourage the owners to perceive these resources as assets rather than liabilities, and to encourage the support of the general public for the preservation and enhancement of historical resources.

**5021. Registration of State Landmarks and Points of Interest; publications of archeological investigations.**

The department shall consider all recommendations for registration made by the commission, and shall register, as state historical landmarks, those buildings, structures, sites, or places which the department deems to be important historical resources and shall register, as points of historical interest, those buildings, structures, sites, or places which the department deems to be historical resources of sufficient historical interest to qualify for the placement of signs pursuant to Section 5022.5. The commission shall maintain a register which shall identify by number and description such historical landmarks and points of historical interest. The department may publish results of office and field archaeological investigation annually and shall issue additional publications, such as detailed site reports and area resource reports, as necessary, to inform the public and educational institutions.

**5022. Landmark and Point of Interest Plaques.**

The department may contract with or cooperate with public or private agencies for suitable plaques, markers, and directional signs at the site of, or on the approaches to, registered historical landmarks or points of historical interest, including signs on highways and roads.

**5022.5. Landmark and Point of Interest Directional Markers.**

There shall be two categories of places of historical significance: the registered historical landmark and the registered point of historical interest. The location of the point of historical interest shall be designated by a sign indicating "Point of Historical Interest" with an appropriate direction, which sign shall be erected and maintained by the Department of Transportation, as to state highways, or the county authorities or city authorities, as to streets or highways under their jurisdictions. A local historical group or organization may raise a marker or plaque at a registered point of historical interest. Nothing herein shall require the signing of such points where parking is not available or where such signing would cause a traffic safety hazard or would interfere with the normal flow of traffic.

**5022.6. Landmark and Point of Interest Markers; design; misdemeanor violation.**

The department shall adopt standard design and detail for the marker and for the plaque which may be erected or raised at registered historical landmarks. The use of such marker or plaque shall be prescribed by rule adopted by the department. Any person who maliciously or for commercial purposes, or contrary to such rule, uses or allows to be used any reproduction or

facsimile of such standard marker or plaque in any manner whatsoever is guilty of a misdemeanor.

**5023. Landmark and Point of Interest Markers; duty to maintain.**

(a) It shall be the duty of the Department of Transportation to keep in repair all objects or markers adjacent to a state highway which have been erected to mark registered historical places and to keep such monuments or markers free from vegetation which may obscure them from view.

(b) It shall be the duty of the county authorities, in charge of county highways, and all city authorities, with respect to streets and highways under their respective jurisdictions, to keep in repair or cause to be kept in repair all objects or markers adjacent to a public highway which have been erected to mark registered historical places and to keep such markers and monuments free from all vegetation which may obscure them from view.

(c) It shall be the duty of the department to keep in repair or cause to be kept in repair all objects, markers and monuments designating any registered historical places in respect to which no obligation in respect thereto is imposed on other governmental agencies by this section, and the department shall keep such markers and monuments free from all vegetation which may obscure them from view.

**5024. State-owned Historical Resources; policies to preserve; master list; documentation.**

(a) On or before January 1, 1982, each state agency shall formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction listed in or potentially eligible for inclusion in the National Register of Historic Places or registered or eligible for registration as a state historical landmark pursuant to Section 5021. The State Historic Preservation Officer shall provide such agencies with advice and assistance as needed.

(b) On or before July 1, 1983, each state agency shall submit to the State Historic Preservation Officer an inventory of all state-owned structures over 50 years of age under its jurisdiction listed in or which may be eligible for inclusion in the National Register of Historic Places or registered or which may be eligible for registration as a state historical landmark. State-owned structures in freeway rights-of-way shall be inventoried before approval of any undertaking which would alter their original or significant features or fabric, or transfer, relocate or demolish those structures.

(c) The State Historic Preservation Officer, with the advice of the State Historical Resources Commission, shall establish standards, after consultation with agencies to be affected, for the submittal of inventories and development of policies for the review of historical resources identified pursuant to this section. These review procedures shall permit the State Historic Preservation Officer to determine which historical resources identified in inventories meet National Register of Historic Places and state historical landmark criteria and shall be placed in the master list of historical resources.

(d) The State Historic Preservation Officer shall maintain a master list comprised of all inventoried structures submitted and determined significant pursuant to this section and all state-owned historical resources currently listed in the National Register of Historic Places or registered as a state historical landmark under state agency jurisdiction. The State Historic Preservation Officer shall inform agencies with historical resources on the master list of current sources of funding for preservation activities, including rehabilitation and restoration.

(e) On or before July 1, 1984, and annually thereafter, each state agency shall submit inventory updates to the State Historic Preservation Officer and a statement of its year's preservation activities.

(f) Each state agency shall submit to the State Historic Preservation Officer for comment documentation for any project having the potential to affect historical resources listed in or potentially eligible for inclusion in the National Register of Historic Places or registered as or eligible for registration as a state historical landmark.

(g) As used in this section and Section 5024.5, "state agency" means any agency, department, division, commission, board, bureau, officer, or other authority of the State of California.

(h) As used in this section and Section 5024.5, "structure" means an immovable work constructed by man having interrelated parts in a definite pattern of organization and used to shelter or promote a form of human activity and which constitutes an historical resource.

**5024.1. California Register of Historical Resources.**

(a) A California Register of Historical Resources is hereby established. The California Register is an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change. The commission shall oversee the administration of the California Register.

(b) The California Register shall include historical resources determined by the commission, according to procedures adopted by the commission, to be significant and to meet the criteria in subdivision(c).

(c) A resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:

(1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.

(2) Is associated with the lives of persons important in our past.

(3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

(4) Has yielded, or may be likely to yield, information important in prehistory or history.

(d) The California Register shall include the following:

(1) California properties formally determined eligible for, or listed in, the National Register of Historic Places.

(2) State Historical Landmark No. 770 and all consecutively numbered state historical landmarks following No. 770. For state historical landmarks preceding No. 770, the office shall review their eligibility for the California Register in accordance with procedures to be adopted by the commission.

(3) Points of historical interest which have been reviewed by the office and recommended for listing by the commission for inclusion in the California Register in accordance with criteria adopted by the commission.

(e) If nominated for listing in accordance with subdivision (f), and determined to be significant by the commission, the California Register may include the following:

(1) Individual historical resources.

(2) Historical resources contributing to the significance of an historic district under criteria adopted by the commission.

(3) Historical resources identified as significant in historical resources surveys, if the survey meets the criteria listed in subdivision (g).

(4) Historical resources and historic districts designated or listed as city or county landmarks or historic properties or districts pursuant to any city or county ordinance, if the criteria for designation or listing under the ordinance have been determined by the office to be consistent with California Register criteria adopted by the commission.

(5) Local landmarks or historic properties designated under any municipal or county ordinance.

(f) A resource may be nominated for listing as an historical resource in the California Register in accordance with nomination procedures adopted by the commission, subject to all of the following:

(1) If the applicant is not the local government in whose jurisdiction the resource is located, a notice of nomination in the form prescribed by the commission shall first be submitted by the applicant to the clerk of the local government. The notice shall request the local government to join in the nomination, to provide comments on the nomination, or if the local government



declines to join in the nomination or fails to act upon the notice of nomination within 90 days, the nomination may be submitted to the office and shall include any comments of the local government.

(2) Prior to acting on the nomination of a survey, an individual resource, an historic district, or other resource to be added to the California Register, the commission shall notify property owners, the local government in which the resource is located, local agencies, other interested persons, and members of the general public of the nomination and provide not less than 60 calendar days for comment on the nomination. The commission shall consider those comments in determining whether to list the resource as an historical resource in the California Register.

(3) If the local government objects to the nomination, the commission shall give full and careful consideration to the objection before acting upon the nomination. Where an objection has been raised, the commission shall adopt written findings to support its determination concerning the nomination. At a minimum, the findings shall identify the historical or cultural significance of the resource, and, if applicable, the overriding significance of the resource that has resulted in the resource being listed in the California Register over the objections of the local government.

(4) If the owner of a private property or the majority of owners for an historic district or single property with multiple owners object to the nomination, the commission shall not list the property as an historical resource in the California Register until the objection is withdrawn. Objections shall be submitted to the commission by the owner of the private property in the form of a notarized statement certifying that the party is the sole or partial owner of the property, and that the party objects to the listing.

(5) If private property cannot be presently listed in the California Register solely because of owner objection, the commission shall nevertheless designate the property as eligible for listing.

(g) A resource identified as significant in an historical resource survey may be listed in the California Register if the survey meets all of the following criteria:

(1) The survey has been or will be included in the State Historic Resources Inventory.

(2) The survey and the survey documentation were prepared in accordance with office procedures and requirements.

(3) The resource is evaluated and determined by the office to have a significance rating of Category 1 to 5 on DPR Form 523.

(4) If the survey is five or more years old at the time of its nomination for inclusion in the California Register, the survey is updated to identify historical resources which have become eligible or ineligible due to changed circumstances or further documentation and those which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

(h) Upon listing an historical resource or determining that a property is an historical resource that is eligible for listing, in the California Register, the commission shall notify any owner of the historical resource and also the county and city in which the historical resource is located in accordance with procedures adopted by the commission.

(i) The commission shall adopt procedures for the delisting of historical resources which become ineligible for listing in the California Register.

**5024.5. State-owned Historical Resources; notice and summary of proposed actions to SHPO; mediation responsibility.**

(a) No state agency shall alter the original or significant historical features or fabric, or transfer, relocate, or demolish historical resources on the master list maintained pursuant to subdivision (d) of Section 5024 without, early in the planning processes, first giving notice and a summary of the proposed action to the officer who shall have 30 days after receipt of the notice and summary for review and comment.

(b) If the officer determines that a proposed action will have an adverse effect on a listed historical resource, the head of the state agency having jurisdiction over the historical resource and the officer shall adopt prudent and feasible measures that will eliminate or mitigate the adverse effects. The officer shall consult the State Historical Building Safety Board for advice when appropriate.

(c) Each state agency shall maintain written documentation of the officer's concurrence with proposed actions which would have an effect on an historical resource on the master list.

(d) The officer shall report to the Office of Planning and Research for mediation instances of state agency refusal to propose, to consider, or to adopt prudent and feasible alternatives to eliminate or mitigate adverse effects on historical resources on the master list as specified in subdivision (f) of Section 5024.

(e) The officer may monitor the implementation of proposed actions of any state agency.

(f) Until such time as a structure is evaluated for possible inclusion in the inventory pursuant to subdivisions (b) and (c) of Section 5024, state agencies shall assure that any structure which might qualify for listing is not inadvertently transferred or unnecessarily altered.

(g) The officer may provide local governments with information on methods to preserve their historical resources.

**5024.6.** State Office of Historic Preservation; powers and duties.

There is in the department the State Office of Historic Preservation, which is under the direction of the officer. The office shall do all of the following:

(a) Serve as the staff of the commission in carrying out its responsibilities, and as the staff of the officer in carrying out the responsibilities of that position.

(b) Recommend properties of historical significance for nomination by the commission for the National Register of Historic Places, for registration as historical landmarks and points of historical interest, and for listing in the California Register.

(c) Administer state and federal incentive programs for the preservation of historical resources, including the California Register.

(d) Provide information on federal and state benefits for preservation projects and enhancement of historical resources.

(e) Administer grant and loan programs to survey historical resources and assist the development and enhancement of these resources.

(f) Assist other state agencies by providing information and education on the economic and social benefits of utilizing historical resources.

(g) Provide public education and information on the preservation and enhancement of historical resources.

(h) Provide information and technical assistance to local, state, and national organizations to promote preservation and enhancement of historical resources by developing model ordinances, financial mechanisms, educational programs, conferences, workshops, and other materials.

(i) Cooperate with cultural and ethnic commissions, such as the Native American Heritage Commission, or other organizations or representatives when projects involve these groups' concerns.

(j) Review and comment on the impact on historical resources of publicly funded projects and programs undertaken by other governmental agencies.

(k) Review applications for excavation and salvage permits for salvage in state waters.

(l) Assist the State Lands Commission in administering Section 6313.

(m) Administer the California Register in accordance with procedures adopted by the commission.

(n) Administer and maintain the State Historic Resources Inventory in accordance with procedures developed by the office and adopted by the commission.

(o) Administer the California Heritage Fund created pursuant to Section 5079.10.

**5025.11.** State Historical Resources Commission; historic trails.

The department shall, with the advice of the Historical Landmarks Advisory Committee, or, as to certifications on or after January 1, 1975, with the advice of the commission, certify the route followed by Colonel John Charles Fremont and party from the Nevada state line through Mono, Inyo, Alpine, Amador, and El Dorado Counties to Sutter's Fort in Sacramento County in the winter of 1843, and the Donner Party Trail, from the Nevada state line to the junction of Verdi Canyon to Alder Creek Camp of the Donner Party, thence to the Donner Monument at Donner

Memorial State Park. The department may certify and mark, with the advice of the commission, other historic routes of travel within the state.

**5025.12.** Historic Trail and Markers.

The department is authorized to place suitable markers along these certified routes at intervals and at each intersection with a state highway or county road.

**5025.2.** Historic Trail Markers; duty to maintain.

It shall be the duty of the department to keep in repair, or cause to be kept in repair, all markers of such historical routes.

**5026.** Nomination to National Register of Historic Places; notification of city and county.

Upon receipt of an application for an entry on the National Register of Historic Places and prior to making any evaluation and recommendation with respect to such application, the commission shall first submit the application to the appropriate city council or county board of supervisors for comment. The city council or county board of supervisors shall have 45 days from the date of receipt in which to transmit written comments to the commission. Each member of the commission shall be provided by staff with a copy of such comments not less than 15 days prior to the hearing on the application by the commission.

**5027.** Transfer of State-owned National Register Property; legislative approval of demolition and alteration.

Any building or structure that is listed on the National Register of Historic Places and is transferred from state ownership to another public agency shall not be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical values, without the prior approval of the Legislature by statute. This section applies to any building or structure transferred from state ownership to another public agency after January 1, 1987.

**5028.** Natural Disaster Damage to Historic Property.

(a) No structure that is listed on the National Register of Historic Places, on the California Register of Historic Places, or on any local public register of historic places, and that has been damaged due to a natural disaster, including, but not limited to, an earthquake, fire, or flood, may be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical values, unless the structure presents an imminent threat to the public of bodily harm or of damage to adjacent property, or unless the State Office of Historic Preservation determines, pursuant to subdivision (b), that the structure may be demolished, destroyed, or significantly altered.

(b) Any local government may apply to the State Office of Historic Preservation for its determination as to whether a structure meeting the description set forth in subdivision (a) shall be demolished, destroyed, or significantly altered. That determination shall be based upon the extent of damage to the structure, the cost of rehabilitating or reconstructing the structure, the structure's historical significance, and any other factor deemed by the State Office of Historic Preservation to be relevant. In making that determination, the State Office of Historic Preservation shall consider the recommendation made by a team selected by the State Office of Historic Preservation, composed of three residents with historic preservation expertise who reside in the affected county. The determination of the State Office of Historic Preservation shall be issued no later than 30 days after the structure was damaged, or 30 days after the receipt of the application, whichever occurred later.

**5029.** State Historical Resource Designation; notification of county recorder; effect on title.

(a) The commission shall, within 90 days after the approval by the director of the issuance by the commission of an historical resources designation for an individual property, submit to the county recorder for recordation, and the county recorder shall record, a certified resolution establishing the historical resources designation. For historical resources designations

approved prior to March 15, 1993, the commission may submit for recordation, and the county recorder shall record, a certified resolution of historical resources designation.

(b) Any local agency, or unit thereof, shall, within 90 days of an historical resources designation by the local agency or unit for an individual property, submit to the county recorder for recordation, and the county recorder shall record, a certified resolution establishing the historical resources designation. For historical resources designations made prior to March 15, 1993, the local agency, or unit thereof, may submit for recordation, and the county recorder shall record, a certified resolution of historical resources designation.

(c) The resolution shall include the name of the current property owner, the designating entity, the specific historical resources designation, and a legal description of the property.

(d) The recorder shall index the recorded resolutions of the commission or local agency, or unit thereof, listing the respective agency as the "grantor" and the current owner as the "grantee" for that purpose.

(e) For the purpose of this section, the term "historical resources designation" means the California Register of Historical Resources and any local historical resources designation resulting in restrictions on demolitions or alterations.

(f) This section shall have no effect on the right, title, or interest in the property identified after March 15, 1993, which is acquired by a bona fide purchaser for value between the time of designation of the property as a historical resource and time that the designation is recorded unless the purchaser had actual knowledge of the designation.

(g) This section shall have no effect upon the title to any property that is subject to this section.

## State Landmarks

### **5031. Qualified Historical Property.**

"Qualified historical property" means privately owned property which is not exempt from property taxation, is visually accessible to the public, and which is:

(a) All landmark registrations up to and including Register No. 769, which were approved without the benefit of criteria, shall be approved only if the landmark site conforms to the existing criteria as determined by the California Historical Landmarks Advisory Committee or as to approvals on or after January 1, 1975, by the State Historical Resources Commission. Any other registered California historical landmark under Article 2 (commencing with Section 5020) of this chapter, except points of historical interest, and which satisfies any of the following requirements:

(1) The property is the first, last, only, or most significant historical property of its type in the region;

(2) The property is associated with an individual or group having a profound influence on the history of California; or

(3) The property is a prototype of, or an outstanding example of, a period, style, architectural movement, or construction, or if it is one of the more notable works, or the best surviving work, in a region of a pioneer architect, designer, or master builder; or

(b) A property which is listed on the national register described in Section 470A of Title 16 of the United States Code; or

(c) A property which is listed on a city or county register or inventory of historical or architecturally significant sites, places or landmarks, provided, that such property satisfies any of the requirements set forth in paragraph 1, 2 or 3 under subdivision (a).

### **5032. Additional criteria.**

(a) "Qualified historical property" pursuant to Section 5031 includes:

(1) Individual sites having structures.

(2) Facades or portions of entire sites.

(3) Historic districts.

(b) "Qualified historical property" does not include individual sites without structures.

(c) Commercial operation in itself does not necessarily disqualify a landmark's registration. However, should a commercial enterprise by its physical development plans, or its proximity, impact, excessive use, or management philosophy so dilute or erode the significance of or quality of the landmark's integrity, then an adverse effect shall have occurred and its registration may be withdrawn.

**5033. Authority to adopt rules.**

The department shall adopt all rules and regulations relating to standards for qualifying as a historical property. In adopting such rules and regulations, the department shall consider all recommendations of the State Historical Resources Commission.

## **Heritage Fund**

**5079. Heritage Fund; legislative declaration.**

The Legislature hereby finds and declares all of the following:

(a) The preservation of California's historical resources is a responsibility of all citizens, and deserving of continued support through private contributions and efforts and through the use of public funds.

(b) Peoples of many cultures, backgrounds, and abilities have contributed to the economic and social diversity of the state.

(c) Increasing pressures for development, increasing public use, and deterioration through age and exposure continue to place California's historical resources at risk.

(d) Preservation of historical resources stimulates the economy, promotes energy conservation, contributes to the tourism industry, and enhances the quality of life in California.

(e) The stewardship of historical resources will further educational goals, deepen cultural and historical awareness, and advance the public's understanding of the existing human environment and institutions.

(f) Therefore, it is the policy of the state to encourage the stewardship and preservation of California's historical resources.

**5079.01. Definitions.**

As used in this chapter, the following terms have the following meanings:

(a) "California Register" means the California Register of Historic Resources.

(b) "Commission" means the State Historical Resources Commission.

(c) "Fund" means the California Heritage Fund created pursuant to Section 5079.10.

(d) "Historical landmark" and "historical resource" have the same meaning as set forth in subdivision (i) and subdivision (j), respectively, of Section 5020.1.

(e) "Historical resource preservation project" is a product, facility, or project designed to preserve an historical resource that is listed, or formally determined eligible for listing, in the National Register of Historic Places or the California Register, or designated as a historical landmark or point of historical interest.

(f) "National Register of Historic Places" means the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture as authorized by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.).

(g) "Nonprofit organization" means any private, nonprofit organization, existing under Section 501(c)(3) of the United States Internal Revenue Code, that has, among its principal charitable purposes, the preservation of historic resources for cultural, scientific, historic, educational, recreational, agricultural, or scenic opportunities.

(h) "Office" means the State Office of Historic Preservation.

(i) "Point of historical interest" has the same meaning as set forth in subdivision (o) of Section 5020.1.

(j) "Preservation" means identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and reconstruction, or any combination of those activities.

(k) "Public agency" means a federal agency, state agency, city, county, district, association of governments, joint powers agency, or tribal organization.

(l) "Stewardship" means the development and implementation of programs for the proper care, interpretation, and repose of items of historic and cultural value.

**5079.10.** Creation of funds; administration of funds.

The California Heritage Fund is hereby created in the State Treasury and shall be administered by the office. Money in the fund shall be available, upon appropriation by the Legislature, to implement laws providing for historical resource preservation, including, but not limited to, Section 5028 and Executive Order W-26-92, under criteria developed by the office and adopted by the commission. The actual costs incurred by the office in connection with administering and implementing the services and functions authorized in this chapter shall be paid from the fund.

**5079.11.** Deposits.

Unless otherwise provided by law, all funds received by the office for the purposes of historical resource preservation shall be deposited in the fund. The office and the Controller may establish separate accounts in the fund for the purpose of separating deposits according to their origin or intended purpose.

**5079.12.** Grants, gifts, donations.

In addition to any public funds appropriated expressly for the purposes of this chapter, the office may apply for and accept grants, and accept gifts, donations, subventions, rents, royalties, and other financial support, or real or personal property, from private sources. All money received from private sources shall be deposited in a separate account established pursuant to Section 5079.11 and, notwithstanding Section 5079.10, is hereby continuously appropriated to the office for expenditure for historical resources preservation projects pursuant to this chapter after notification to, and project approval by, the Department of Finance.

**5079.13.** Deposit of proceeds.

The office shall deposit the proceeds from any lease, rental, sale, exchange, or transfer of real property, or any interest therein or option thereon, made pursuant to Section 5079.23, in the fund, together with any other reimbursements, repayments, and income received by the office, unless otherwise provided by law.

**5079.14.** Deposit of proceeds from real property lease.

When a lease of real property is made to a private individual, group, or entity, the office shall annually transfer an amount not to exceed 25 percent of the gross income from the lease to the city or, if in an unincorporated area, the county in which the real property is located. Fifty percent of the funds received by the city or county shall be used for historical preservation projects, as approved by the office.

**5079.15.** Emergency financial support.

The office may apply for and receive emergency financial support for projects and areas identified under federal and state emergency and disaster guidelines. These funds shall be available for expenditure for the purposes of this chapter and Article 2 (commencing with Section 5020) of Chapter 1 under criteria developed by the office and adopted by the commission.

**5079.20.** Real property acquisition.

(a) Pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), the State Public Works Board may acquire, on behalf of the office, fee title, or any lesser interest, in any real property whose preservation is

required to meet the policies and objectives of the California Register, including any interest required to provide public access to cultural or historical resources.

(b) The office may accept gifts or dedications of real property in order to meet the purposes of this chapter.

(c) The office may enter into an option to purchase real property in order to meet the purposes of this chapter.

**5079.21.** Acquisition for public access.

The office may acquire and hold historical resources, artifacts, or objects, or any interest therein, that are required to provide public access to cultural or historical resources. These items may be acquired by purchase, option to purchase, gift, exchange, dedication, or any combination thereof.

**5079.22.** Agreements for preservation and management.

The office may, in order to carry out historic preservation projects for purposes of Article 2 (commencing with Section 5020) of Chapter 1 and Article 2 (commencing with Section 5079.10) of this chapter, initiate, negotiate, and participate in agreements for the preservation and management of historical resources under its control with public agencies, nonprofit organizations, private entities, or individuals, and enter into any other agreements authorized by state law.

**5079.23.** Real property transactions; authorization.

Notwithstanding any other provision of law, the Director of General Services, when so requested by the office, may lease, rent, sell, exchange, or otherwise transfer any real property, or interest therein or option to purchase, acquired under this chapter, provided that the Director of General Services determines that the action is in the best interests of the state. The Department of General Services shall be reimbursed for any services rendered pursuant to this section.

**5079.24.** Real property transactions; adoption and implementation of procedures.

The commission shall adopt, and the office shall implement, appropriate procedures to ensure that real property transactions undertaken pursuant to this chapter are carried out in the public interest and with proper notice to the public.

**5079.25.** Loans and grants to public agencies and non profit organizations.

Money in the fund shall be available, upon appropriation by the Legislature, for loans and grants to public agencies and nonprofit organizations to carry out the purposes of this chapter. No loan or grant shall be made except pursuant to an agreement with the office, and subject to terms and conditions approved by the commission, that ensure that the loan or grant carries out the purposes of this chapter.

**5079.26.** Authorization to contract and issue grants.

(a) The office shall encourage and support historical resource preservation through education activities, including publications and training, that further the policies set forth in Section 5079.

(b) The office may enter into contracts with public agencies, nonprofit organizations, or private entities for this purpose and may make grants to public agencies and nonprofit organizations to carry out these activities.

**5079.27.** Support services.

The office may select and contract with other state agencies and with private entities and individuals to provide services necessary to carry out the purposes of this chapter and Section 5020.4.

**5079.28.** Project selection criteria.

Criteria for the selection of projects shall include, but not be limited to, all of the following:

(a) The project is representative of the concerns and needs of a broad range of constituencies or an underrepresented constituency.

(b) The proposal considers aspects of the broad political, social, and economic issues of the present and their implications for the future preservation of historical resources.

(c) The project effectively links historical resources preservation issues and concerns with other public policy areas.

(d) The project strengthens and fosters the role of local communities in historical resources preservation issues.

(e) The project supports and enhances the capacity of public policy planning processes to accommodate historical resources preservation issues and concerns.

(f) The project enhances the historic preservation program of certified local governments, as defined in subdivision (b) of Section 5020.1, and is consistent with the support of the office of certified local government programs.

**5079.35.** Acquisition, conservation, return and transfer of title.

(a) The office may acquire any interest in real property pursuant to Section 5079.20, or personal property pursuant to Section 5079.21, with historical, including archaeological, significance, or necessary for the preservation or management of any such property, in order to prevent the loss of historic integrity or imminent destruction or to otherwise secure the preservation of the historical resource.

(b) The office may undertake conservation or preservation activities for historical resources acquired under this chapter.

(c) The office shall encourage, to the greatest extent feasible, the acquisition of historical resources by other qualified purchasers, and the acquisition of the property shall only occur with the office acting as the buyer of last resort.

(d) The office shall take all feasible action to return or transfer title to the historical resources to a nonprofit organization, public agency, private entity, or individual, for all properties acquired for historical resources preservation under this chapter.

(e) Prior to taking any action towards the acquisition of any historical property, the office shall consult as needed with the appropriate city or county in order to better assess the historical significance of the historical property.

**5079.40.** Grants award; maximum amount.

The office shall award grants on a competitive basis to public agencies and nonprofit organizations for the preservation of historical resources. A grant made pursuant to this article may not exceed the lesser of one million dollars (\$1,000,000) or 50 percent of the cost of the project. A grant may be awarded on a noncompetitive basis for emergency purposes only.

**5079.41.** Matching funds.

The office shall adopt guidelines, subject to the approval of the commission, for determination of the amount of matching funds required, if any, for a grant.

**5079.42.** Agreements with non profit organizations.

A public agency may enter into an agreement with a nonprofit organization for the purpose of carrying out a historical resource preservation project funded by a grant made pursuant to this article.

**5079.43.** Excess funds.

After completion of the historical resource preservation project, the grant recipient shall return to the office the amount of the grant that exceeds the eligible project costs.

**5079.44.** Assessment of significance; consultation with local government.

The office shall consult as needed with the appropriate city or county in order to assess the historical significance of historical resources in connection with an historical resource preservation project proposed pursuant to this article by a nonprofit organization.



**5079.50.** Grants for impaired resources; restrictions.  
The office shall award grants to public agencies and nonprofit organizations to improve the management of California's historical resources which, because of natural events or human activities, have suffered impairment or loss of historic integrity. Grants made pursuant this section shall not be available to acquire public facilities, except to the extent the acquisition is incidental to the historical resource management project.

**5079.51.** Planning grants.  
After the approval of a proposed historical resource management project, the office may expend funds to prepare a plan for the protection and enhancement of the historical resource.

**5079.52.** Assessment of significance; consultation with local government.  
The office shall consult as needed with the appropriate city or county in order to assess the historical significance of historical resources in connection with an historical resource management project proposed pursuant to this article by a nonprofit organization.

**5079.60.** Archeological resources, legislative findings and declarations.  
The Legislature hereby finds and declares that California's archaeological resources are endangered by urban development and population growth and by natural forces. The Legislature further finds and declares that these resources need to be preserved in order to illuminate and increase public knowledge concerning the historic and prehistoric past of California.

**5079.61.** Archeological resources; grant.  
The office may award grants to public agencies and nonprofit organizations for historical resource preservation projects that include the acquisition of significant archaeological resource areas and artifacts associated with those sites.

**5079.62.** Archeological resources; grant restrictions.  
(a) The amount of the grant shall not exceed the cost of the project.  
(b) The amount of the grant and the amount of matching funds required, if any, shall be determined by the office, based on the financial resources available to the grant applicant, the urgency of the project relative to other archaeological projects, the extent to which the project furthers program objectives, and other factors identified by the office and approved by the commission that further the purposes of this chapter.

**5079.63.** Archeological resources; loans.  
The office may loan funds to a nonprofit organization for the temporary acquisition of an archaeological resource that will be subsequently acquired by a public agency.

**5079.64.** Archeological resources; grant restrictions.  
Not more than 25 percent of any grant made pursuant to the article may be expended for archaeological survey and reports, special salvage excavation, and artifact preservation activities in conformance with accepted curation standards. No funds shall be expended for the survey or excavation of any site that the owner intends to resell for commercial gain.

**5079.65.** Archeological resources; assessment of significance; consultation with local government.  
The office shall consult as needed with the appropriate city or county in order to assess the historical significance of historical resources in connection with an historical resource preservation project proposed pursuant to this article by a nonprofit organization.

## Archeological Sites

**5097.** Archeological, Paleontological and Historical sites definitions; state lands.

As used in this chapter, "state lands" means lands owned by, or under the jurisdiction of, the state or any state agency. It does not include lands owned by, or under the jurisdiction of a city, county, or district, or fire trails under the jurisdiction of the Division of Forestry in the Department of Conservation.

**5097.1.** Public Works.

Prior to the commencement of construction of any major public works project on any state lands, the state agency proposing to construct the project, or on whose behalf the project is to be constructed, may submit to the State Department of Parks and Recreation general plans sufficient to indicate the nature of the project, its location, and the excavations which will be undertaken in connection with the project.

**5097.2.** Archeological Site Survey.

Upon receipt of plans for a proposed construction project upon state lands, the department may conduct an archaeological site survey on the affected state lands in order to determine whether the lands may contain any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historical feature. The department shall submit to the state agency, by or on whose behalf the project is to be constructed, its recommendations concerning the preservation, photographing, recording, or excavation for, any archaeological, paleontological, or historical features which may be located upon the lands.

**5097.3.** Department of Parks and Recreation.

The state agency, by or on whose behalf public works are to be constructed on state lands, may undertake such surveys, excavations, or other operations on the state lands as it determines to be necessary to preserve or record any archaeological, paleontological, or historical features, including rock art, which may be located on the lands, after receiving the recommendations of the department, or the state agency may contract with the department to undertake those operations. The department may carry out the operations.

**5097.4.** Delay.

No archaeological program conducted by the Department of Parks and Recreation shall impair, impede or delay any state construction project.

**5097.5.** Removal or Destruction; Prohibition.

(a) No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands. Violation of this section is a misdemeanor.

(b) As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.

**5097.6.** Appropriations.

Expenditures to carry out the purposes of this chapter shall be made only pursuant to legislative appropriation for these purposes or by contract with other state agencies.

## Native American Heritage

**5097.9.** Native American Historical, Cultural and Sacred Sites; free exercise of religion; cemeteries, place of worship on ceremonial sites.

No public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The provisions of this chapter shall be enforced by the commission, pursuant to Sections 5097.94 and 5097.97.

The provisions of this chapter shall not be construed to limit the requirements of the Environmental Quality Act of 1970, Division 13 (commencing with Section 21000). The public property of all cities, counties, and city and county located within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres, shall be exempt from the provisions of this chapter. Nothing in this section shall, however, nullify protections for Indian cemeteries under other statutes.

**5097.91.** Native American Heritage Commission.  
There is in state government a Native American Heritage Commission, consisting of nine members appointed by the Governor with the advice and consent of the Senate.

**5097.92.** Native American Heritage Commission; membership; executive officer.  
At least five of the nine members shall be elders, traditional people, or spiritual leaders of California Native American tribes, nominated by Native American organizations, tribes, or groups within the state. The executive secretary of the commission shall be appointed by the Governor.

**5097.93.** Native American Heritage Commission; compensation.  
The members of the commission shall serve without compensation but shall be reimbursed their actual and necessary expenses.

**5097.94.** Native American Heritage Commission; powers and duties.  
The commission shall have the following powers and duties:

(a) To identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands. The identification and cataloging of known graves and cemeteries shall be completed on or before January 1, 1984. The commission shall notify landowners on whose property such graves and cemeteries are determined to exist, and shall identify the Native American group most likely descended from those Native Americans who may be interred on the property.

(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans.

(c) To make recommendations to the Legislature relative to procedures which will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.

(d) To appoint necessary clerical staff.

(e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter.

(f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.

(g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In any action to enforce the provisions of this subdivision the commission shall introduce evidence showing that such cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.

(h) To request and utilize the advice and service of all federal, state, local, and regional agencies.

(i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.

(j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.

(k) To mediate, upon application of either of the parties, disputes arising between landowners and known descendents relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.

The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.

(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.

**5097.95.** Native American Heritage Commission; state and local agency cooperation; environmental impact reports.

Each state and local agency shall cooperate with the commission in carrying out its duties under this chapter. Such cooperation shall include, but is not limited to, transmitting copies, at the commission's expense, of appropriate sections of all environmental impact reports relating to property identified by the commission as of special religious significance to Native Americans or which is reasonably foreseeable as such property.

**5097.96.** Native American Heritage Commission; sacred sites.

The commission may prepare an inventory of Native American sacred places that are located on public lands and shall review the current administrative and statutory protections accorded to such places. The commission shall submit a report to the Legislature no later than January 1, 1979, in which the commission shall report its findings as a result of these efforts and shall recommend such actions as the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions.

**5097.97.** Native American Heritage Commission; public hearings; legal action.

In the event that any Native American organization, tribe, group, or individual advises the commission that a proposed action by a public agency may cause severe or irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, or may bar appropriate access thereto by Native Americans, the commission shall conduct an investigation as to the effect of the proposed action. Where the commission finds, after a public hearing, that the proposed action would

result in such damage or interference, the commission may recommend mitigation measures for consideration by the public agency proposing to take such action. If the public agency fails to accept the mitigation measures, and if the commission finds that the proposed action would do severe and irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, the commission may ask the Attorney General to take appropriate legal action pursuant to subdivision (g) of Section 5097.94.

**5097.98.** Native American Heritage Commission; human remains; most likely descendent.

(a) Whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendation within 24 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

(b) Whenever the commission is unable to identify a descendent, or the descendent identified fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendent and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(c) Notwithstanding the provisions of Section 5097.9, the provisions of this section, including those actions taken by the landowner or his or her authorized representative to implement this section and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94, shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Notwithstanding the provisions of Section 30244, the provisions of this section, including those actions taken by the landowner or his or her authorized representative to implement this section, and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94 shall be exempt from the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)).

**5097.99.** Felony Possession of Native American Human Remains and artifacts.

(a) No person shall obtain or possess any Native American artifacts or human remains which are taken from a Native American grave or cairn on or after January 1, 1984, except as otherwise provided by law or in accordance with an agreement reached pursuant to subdivision (l) of Section 5097.94 or pursuant to Section 5097.98.

(b) Any person who knowingly or willfully obtains or possesses any Native American artifacts or human remains which are taken from a Native American grave or cairn after January 1, 1988, except as otherwise provided by law or in accordance with an agreement reached pursuant to subdivision (l) of Section 5097.94 or pursuant to Section 5097.98, is guilty of a felony which is punishable by imprisonment in the state prison.

(c) Any person who removes, without authority of law, any Native American artifacts or human remains from a Native American grave or cairn with an intent to sell or dissect or with malice or wantonness is guilty of a felony which is punishable by imprisonment in the state prison.

**5097.991.** Repatriation.

It is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.

# California Environmental Quality Act

## **21083.2.** Archeological Resources.

(a) As part of the determination made pursuant to Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources. If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources. An environmental impact report, if otherwise necessary, shall not address the issue of nonunique archaeological resources. A negative declaration shall be issued with respect to a project if, but for the issue of nonunique archaeological resources, the negative declaration would be otherwise issued.

(b) If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

- (1) Planning construction to avoid archaeological sites.
- (2) Deeding archaeological sites into permanent conservation easements.
- (3) Capping or covering archaeological sites with a layer of soil before building on the sites.
- (4) Planning parks, greenspace, or other open space to incorporate archaeological sites.

(c) To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required as provided in this subdivision. The project applicant shall provide a guarantee to the lead agency to pay one-half the estimated cost of mitigating the significant effects of the project on unique archaeological resources. In determining payment, the lead agency shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left in an undisturbed state. When a final decision is made to carry out or approve the project, the lead agency shall, if necessary, reduce the specified mitigation measures to those which can be funded with the money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide the funding guarantee referred to in this subdivision, a final decision to carry out or approve a project shall not occur sooner than 60 days after completion of the recommended special environmental impact report required by this section.

(d) Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.

(e) In no event shall the amount paid by a project applicant for mitigation measures required pursuant to subdivision (c) exceed the following amounts:

(1) An amount equal to one-half of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a commercial or industrial project.

(2) An amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a housing project consisting of a single unit.

(3) If a housing project consists of more than a single unit, an amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of the project for the first unit plus the sum of the following:

- (A) Two hundred dollars (\$200) per unit for any of the next 99 units.
- (B) One hundred fifty dollars (\$150) per unit for any of the next 400 units.
- (C) One hundred dollars (\$100) per unit in excess of 500 units.

(f) Unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after final approval necessary to implement the physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable. However, the project applicant may extend that period if he or she so elects. Nothing in this section shall nullify protections for Indian cemeteries under any other provision of law.

(g) As used in this section, "unique archaeological resource" means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

(1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

(2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.

(3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

(h) As used in this section, "nonunique archaeological resource" means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

(i) As part of the objectives, criteria, and procedures required by Section 21082 or as part of conditions imposed for mitigation, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place.

(j) This section does not apply to any project described in subdivision (a) or (b) of Section 21065 if the lead agency elects to comply with all other applicable provisions of this division. This section does not apply to any project described in subdivision (c) of Section 21065 if the applicant and the lead agency jointly elect to comply with all other applicable provisions of this division.

(k) Any additional costs to any local agency as a result of complying with this section with respect to a project of other than a public agency shall be borne by the project applicant.

(l) Nothing in this section is intended to affect or modify the requirements of Section 21084 or 21084.1.

**21084.** Guidelines shall list classes of projects exempt from Act.

(e) No project that may cause a substantial adverse change in the significance of an historical resource, as specified in Section 21084.1, shall be exempted from this division pursuant to subdivision (a).

**21084.1.** Historical Resources Guidelines.

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 shall not preclude a

lead agency from determining whether the resource may be an historical resource for purposes of this section.



# Government Code

## Public Records

### **6254.** Restriction of Archeological Record Disclosure.

Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following: (r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

**6254.10.** Information maintained by Department of Parks and Recreation. Nothing in this chapter requires disclosure of records that relate to archeological site information maintained by the Department of Parks and Recreation, the State Historical Resources Commission, or the State Lands Commission.

## Capitol View Protection

### **8162.5.** Definitions.

(a) This section and Sections 8162.6, 8162.7, 8162.8, and 8162.9 shall be known as the Capitol View Protection Act.

(b) "Capitol Park" means the area lying between 9th Street on the west, 15th Street on the east, N Street on the south, and L Street on the north.

(c) "Height limit" means the highest point of the building except for the following unoccupied elements: building caps that serve a decorative function and rooftop mechanical equipment that is screened and placed in a location furthest away when viewed from the State Capitol or Capitol Park.

(d) "Block" means a reference to a block in a specified direction from a given numbered street bounded by the center line of the given street and the center line of the adjacent numbered street in the specified direction. A reference to a block in a specified direction from a given lettered street shall mean the property bounded by the center line of the specified street and the center line of the adjacent lettered street in the specified direction. A reference to a block may also be defined by specific stated lines on opposite sides of a given street, but parallel to the center line of the street.

(e) "Half block" means a reference to a half block in a specified direction from a given numbered street bounded by the center line of the given street and a line parallel to, and 200 feet in the specified direction from, the center line of the given street. A reference to a half block in a specified direction from a given lettered street shall mean the property bounded by the center line of the given street and a line parallel to, and 210 feet in the specified direction from, the center line of the given street.

(f) "Street" means, for purposes of the height restrictions and setback requirements, the center line of the street.

(g) "Abandoned or built across streets" means an instance in which a portion of a given street has been abandoned or built across. A reference to the given street shall mean the center line of the street that would have existed if the street had not been abandoned or built across, and was the same width as the existing given street.

(h) "K Street" shall mean, for property west of 14th Street, the center line of the K Street Mall.

### **8162.6.** Legislative findings and declarations.

The Legislature hereby finds and declares all of the following:

(a) Sacramento's State Capitol and Capitol Park provide the City of Sacramento with a unique cultural and open-space resource that is a major attraction for thousands of visitors each year.

(b) Over the past 10 years, the skyline of downtown Sacramento has changed dramatically, signifying the city's diversity as a center of commerce and government. As a result of this growth, the State Capitol no longer has the most prominent position on the skyline.

(c) In the last three years, 10 major project office buildings have been constructed or approved within the downtown's C-3 zone and approximately 14 additional buildings have been proposed. This growth has prompted increased community concern about preservation of the visual prominence of the State Capitol. (d) Since June of 1990, state officials have been working with the city toward developing a plan that would guide future development downtown in a way that would preserve and enhance the visual prominence of the State Capitol and the character and scale of Capitol Park.

**8162.7.** Height limitations.

Notwithstanding any other provision of law, except as provided in Section 8162.9, the following height limits shall apply as follows:

(a) The applicable height limit shall be 80 feet for the following areas:

(1) The block surrounded by L Street on the north, 16th Street on the east, Capitol Avenue on the south, and 15th Street on the west.

(2) The half block surrounded by Capitol Avenue on the north, 16th Street on the east, 15th Street on the west, and a line parallel to and 210 feet to the south of Capitol Avenue on the south.

(3) The half block to the east of 15th Street between a line running parallel to and 210 feet to the north of N Street on the north, and a line running parallel to and 210 feet to the south of N Street on the south.

(4) The half block to the south of N Street between 15th Street on the east, and a line parallel to and 200 feet to the west of 9th Street on the west.

(b) The applicable height limit shall be 120 feet for the following area: The blocks between L Street on the north, 17th Street on the east, N Street on the south and 16th Street on the west.

(c) The applicable height limit shall be 150 feet for the following areas:

(1) The half block to the west of 16th Street between a line parallel to and 210 feet to the north of N Street on the north, and a line parallel to and 210 feet to the south of N Street on the south.

(2) The half block to the north of O Street between 16th Street on the east and 8th Street on the west.

(3) The half block to the south of N Street between 8th Street on the west and a line parallel to and 200 feet to the east of 8th Street on the east.

(4) The block to the south of O Street between a line parallel to and 200 feet to the east of 11th Street on the east and a line parallel to and 200 feet to the west of 11th Street on the west.

(5) The half block to the north of L Street between 16th Street on the east and a line parallel to and 200 feet to the west of 9th Street on the west.

(6) The half block to the west of 9th Street between L Street on the north and N Street on the south.

(d) The applicable height limit shall be 250 feet for the following areas:

(1) The half block to the south of O Street between 13th Street and a line parallel to and 200 feet to the west of 12th Street.

(2) The half block to the south of O Street between a line parallel to and 200 feet to the east of 10th Street on the east, and a line parallel to and 200 feet to the west of 8th Street on the west.

(3) The half block to the west of 8th Street between N Street on the north and O Street on the south.

(4) The half block to the south of K Street between 12th Street on the east and 10th Street on the west.

(5) The block to the north of K Street between a line parallel to and 200 feet to the west of 11th Street on the west, and a line parallel to and 200 feet to the east of 11th Street on the east.

(e) The applicable height limit shall be 300 feet for the following areas:

(1) The half block to the south of K Street, between 16th Street on the east and 12th Street on the west.

(2) The half block to the South of K Street, between 10th Street on the east and 8th Street on the west.

(3) The half block east of 8th Street, between a line parallel to and 210 feet to the north of L Street on the north and N Street on the south.

(f) The applicable height limit shall be 350 feet for the following areas:

(1) The block to the north of J Street between a line parallel to and 200 feet to the east of 11th Street on the east and a line parallel to and 200 feet west of 11th Street on the west.

(2) The half block to the north of I Street, between 11th Street on the east and a line parallel to and 200 feet to the west of 11th Street on the west.

(g) The applicable height limit shall be 400 feet for the following areas:

(1) The half block to the north of K Street between 16th Street on the east and a line parallel to and 200 feet to the west of 12th Street on the west.

(2) The half block to the north of K Street between a line parallel to and 200 feet east of 10th Street on the east and a line parallel to and 200 feet west of 8th Street on the west.

(3) The block to the west of 8th Street between K Street on the north and N Street on the south.

(h) The applicable height limit shall be 450 feet for the following areas:

(1) The half block to the south of J Street between 16th Street on the east and a line parallel to and 200 feet west of 12th Street on the west.

(2) The half block to the south of J Street between a line parallel to and 200 feet to the east of 10th Street on the east and 7th Street on the west.

(3) The half block to the north of K Street between a line parallel to and 200 feet to the east of 7th Street on the east and 7th Street on the west.

#### **8162.8. Setback requirements.**

Notwithstanding any other provision of law, the following setback requirements shall apply:

(a) Buildings in the first half block north of L Street between a line parallel to and 200 feet to the east of 15th Street on the east and a line parallel to and 200 feet to the west of 9th Street on the west, and buildings in the first half block west of 9th Street between L Street on the north and N Street on the south shall be subject to the following setback requirements:

(1) Each building shall be set back not less than 15 feet from the property line along L Street or 9th Street.

(2) Buildings may be designed to include street level pedestrian oriented features such as arcades, plazas, or building bases. These features may extend up to six feet into the required 15-foot setback area, but shall not exceed 30 feet in height.

(b) Buildings in the first half block east of 15th Street between L Street on the north and N Street on the south shall be subject to the following setback requirements:

(1) Each building shall be set back not less than 9 feet from the property line along 15th Street.

(2) That portion of each building exceeding 60 feet shall be set back not less than 15 feet from the base of the building along 15th Street.

(c) Buildings in the first half block east of 11th Street between I Street on the north and a line parallel to and 210 feet to the south of K Street on the south, and buildings in the first half block to the west of 11th Street between H Street on the north and a line parallel to and 210 feet to the south of K Street on the south, shall be subject to the following setback requirement:

That portion of each building exceeding 70 feet or five floors, whichever is lower, shall be set back not less than 30 feet from the base of the building along Capitol Mall and 11th Street.

#### **8162.9. Height limitation capitol area development authority's Stanford and Heilbron Mansions.**

(a) Notwithstanding subdivision (a) of Section 8162.7, a 96-foot height limit shall apply to construction, exclusively for the purposes of residential development, for Lot 4, Block 223 (known as Capitol Area Development Authority Residential Site 21) surrounded by N Street on

the north, 14th Street on the east, 120 feet west of 14th Street on the west, and one quarter of a half block to the south of N Street on the south.

(b) Notwithstanding any other provision of law, development on the city blocks surrounding the Stanford Mansion located at 802 N Street, and the Heilbron Mansion located at 704 O Street, shall be environmentally sensitive to these historic mansions. Copies of environmental documents for any development on the city blocks surrounding these mansions shall be distributed by the State Clearinghouse within the Governor's Office of Planning and Research to the State Office of Historic Preservation, and other agencies as required by the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

## **State Capitol Commission**

### **9149. Legislative findings and declaration.**

The Legislature finds and declares that the historic State Capitol is a state historic and architectural legacy which must be preserved and maintained in a manner befitting the significance of the structures to the history and people of California. It is the intention of the Legislature, in enacting this article, to provide a permanent, official body to be charged with advisory review of the maintenance, restoration, development, and management of the historic State Capitol.

### **9149.1. Definitions.**

As used in this article:

- (a) "Commission" means the Historic State Capitol Commission created by Section 9149.2.
- (b) "Historic State Capitol" is the building housing the state legislative offices and chambers, situated in the area bounded by 10th, L, 15th and N Streets in the City of Sacramento, except the east annex thereto.

### **9149.2. Historical State Capitol Commission; membership.**

(a) There is in state government, the Historic State Capitol Commission, which shall consist of seven members, initially appointed as follows:

(1) Two members appointed by the Speaker of the Assembly, with one member initially serving a term of four years and one member initially serving a term of six years; thereafter, any appointment under this paragraph shall be for a term of six years.

(2) Two members appointed by the President pro Tempore of the Senate, with one member initially serving a term of two years and one member initially serving a term of six years; thereafter, any appointment under this paragraph shall be for a term of six years.

(3) The State Historic Preservation Officer, the State Librarian, and the State Archivist, who shall serve ex officio.

(b) Each member shall serve until his or her successor is appointed and qualified. Vacancies shall be filled by the appointing power for the remainder of the term. The commission shall from time to time elect one of its members to chair the commission.

### **9149.3. Historical State Capitol Commission; legislative appointees.**

The appointees of both the Speaker of the Assembly and the President pro Tempore of the Senate shall include one person who represents the arts or humanities and one person from the general public.

### **9149.4. Historical State Capitol Commission; reimbursement.**

The members of the commission shall serve without compensation, but shall receive reimbursement for travel and living expenses in connection with their official duties, at rates established by the Department of Personnel Administration.

**9149.5.** Historical State Capitol Commission; subcommittee on the capitol restoration project. The Joint Rules Committee shall appoint a Subcommittee on the Capitol Restoration Project, comprised of three members from the Senate and three from the Assembly, to monitor the commission. The legislators so appointed shall have no vote in commission proceedings.

**9149.6.** Historical State Capitol Commission; meetings.

(a) Four members of the commission shall constitute a quorum to do business, and no action of the commission may be taken except upon an affirmative recorded vote of four or more members.

(b) All meetings of the commission shall be open to the public.

(c) The commission shall meet upon call of the chairperson and at such other times as it may prescribe.

**9149.7.** Historical State Capitol Commission; powers and duties.

The commission shall have the following powers and duties:

(a) To prepare, complete, and, from time to time, to amend, a comprehensive master plan, based on a priority of needs, for the restoration, preservation, and maintenance of the historic State Capitol.

(b) To review and advise the Legislature on any development, improvement, or other physical change in any aspect of the historic State Capitol.

(c) To manage, with the approval of the Joint Rules Committee, all historic and museum spaces and any concessions, in the historic State Capitol.

(d) To develop and manage historic art loans or other programs, exhibits, films, convocations, or other activities of an historic, architectural, or cultural nature, including any museum space in the historic State Capitol, as the commission determines will serve the interests of the public and promote public interest in the historic State Capitol under Joint Rules Committee supervision.

(e) To purchase for the state, or to accept as gifts to the state, any furnishings, artifacts, works of art, or other property which the commission determines will enhance the historic and cultural aspects of the historic State Capitol. All furnishings, artifacts, works of art, or other property so acquired shall be managed by the commission under supervision of the Joint Rules Committee.

(f) To accept financial contributions from any source, public or private, including any advisory foundation or group.

(g) To do any other act which the commission determines will maintain or enhance the historic and cultural legacy of the historic State Capitol.

**9149.8.** Standards for restoration, maintenance and curation.

In carrying out its duties and responsibilities under this article, the commission shall follow accepted standards for restoration, preservation, and maintenance of historic structures, including all of the following, where applicable and feasible:

(a) Standards for historic preservation, maintenance, recordation, and documentation of landmarks, promulgated by the United States Department of the Interior or its successor.

(b) Guidelines and museum management procedures, established by the National Trust for Historic Preservation or its successor.

(c) Standards, procedures, and guidelines for maintenance and protection of historic properties established or administered by the State Historic Preservation Officer and the Office of Historic Preservation.

(d) The management, conservation, and accession policies and procedures for historic features and artifacts developed for the Capitol Museum project interpretive program of the Joint Rules Committee in connection with the State Capitol Restoration Project conducted under Section 9124.

(e) Recommended procedures of the American Association of Museums.

- 9149.9.** Restoration project data and research.  
The commission shall maintain and may utilize all historic data, research, and project files developed and gathered by the state, and in the possession of the state, in connection with the State Capitol Restoration Project. On the date that the commission commences business, all of the written materials covered under this section shall be transferred to the State Archives to inventory, process, and store on behalf of the commission.
- 9149.10.** Assistance from state agencies.  
The commission may request and shall receive assistance and data, relevant to the commission's duties and responsibilities, from every agency of state government.
- 9149.11.** Records and reports.  
The commission shall maintain complete records of its proceedings and may publish reports and other publications in connection with its duties and responsibilities.
- 9149.12.** Funds.  
The commission shall use any funds appropriated to its use, or allocated to its use by the Joint Rules Committee, donated to it, or acquired as revenue from any concession operated in the State Capitol, only for purposes of furthering the objectives of this article.
- 9149.13.** Concessions.  
The commission shall review and advise on any interagency agreement for management of concessions within the historic State Capitol.
- 9149.14.** Historical State Capitol Commission; executive officer.  
The commission shall employ an executive officer, who shall have at least three years of administrative-curatorial experience in the cultural or historic preservation fields, and staff persons as may be necessary to provide administrative services to the commission. No person may be employed as executive officer without approval, by majority vote, of the members of the Joint Rules Committee.
- 9149.15.** Contracts for services.  
The commission may contract with any agency, public or private, for services, in connection with the commission's duties and responsibilities, as the commission determines to be necessary, including, but not limited to, the Department of Parks and Recreation in connection with the management of the Capitol Museum, as approved by the Joint Rules Committee. These contracts shall be subject to and consistent with existing laws, rules, and state policy regarding contracts with private firms or individuals for services provided to the state.
- 9149.16.** Legislative report.  
The commission annually shall report to the Legislature on its activities. The commission shall propose to the Legislature such recommendations for legislation in connection with the historic State Capitol as the commission determines to be necessary.
- 9149.17.** Allocation.  
The commission shall be supported by allocations by the Joint Rules Committee from the Contingent Funds of the Assembly and Senate. The commission annually shall submit to the Joint Rules Committee a proposed budget for each fiscal year. The budget shall be subject to approval by a majority vote of the Joint Rules Committee.

## California Main Street Program

**15399.** Legislative findings and declarations.

The Legislature finds and declares the following:

(a) The continued economic vitality of business districts in our state's smaller cities and the neighborhoods of larger urban and suburban cities are essential to community preservation, social cohesion, and economic growth.

(b) In recent years these central business districts have experienced economic difficulties due to shifting population bases, changes in the marketplace, and greater competition from suburban shopping malls.

(c) This decline has further eroded the ability of small businesses and property owners to renovate and enhance their commercial and residential properties.

(d) Merchants in the smaller cities are also experiencing greater difficulties in obtaining financial aid at reasonable interest rates, thereby further inhibiting their ability to develop new business as well as continue existing operations.

(e) Neighborhood commercial areas in medium-sized and larger cities need to maintain their local economies in order to provide goods and services to adjacent residents, to provide employment opportunities, and to avoid disinvestment and economic dislocations.

**15399.1.** Legislative intent.

(a) It is the intent of the Legislature to establish in the agency a program, the California Main Street Program, to provide technical assistance and training for small cities' government, business organizations, and merchants and property owners to accomplish community and economic revitalization and development of older central business districts and neighborhoods. It is the further intent of the Legislature that this program shall employ the techniques developed by the National Trust of Historic Preservation's Main Street Center which are designed to stimulate business reinvestment, restore building facades, retain existing small businesses, strengthen the local tax base, create employment opportunities, promote new businesses in downtown areas, and help to create a renewed sense of community pride. The Legislature further intends that this program be a joint state, local government, and private sector partnership utilizing private and public financial resources.

(b) It is the further intent of the Legislature to expand the California Main Street Program enacted pursuant to Chapter 1577 of the Statutes of 1985 to include assistance for commercial areas in medium-sized cities and larger urban communities.

**15399.2.** Development plan.

(a) There is hereby created within the agency a California Main Street Program which shall operate according to a plan developed by the agency with the assistance of all of the following:

(1) Organizations representing merchants and governments of small cities, historic preservation interests, financial institutions, and economic development groups.

(2) The California private industry councils.

(3) The Office of Small Business, the Office of Business Development, and the Small Business Development Center within the agency.

(4) The Office of Historic Preservation.

(5) The Department of Housing and Community Development.

(6) The chairpersons of the following committees of the Legislature:

(A) The Assembly Select Committee on Small Business.

(B) The Senate Select Committee on Small Business Enterprises.

(C) The Assembly Committee on Economic Development and New Technologies.

(D) The Joint Committee on the State's Economy. These chairpersons shall assist in the development of the plan to the extent that their participation is not incompatible with their positions as Members of the Legislature.

(7) The California Preservation Foundation.

(b) The agency shall modify and expand the California Main Street Program plan pursuant to Chapter 1577 of the Statutes of 1985 to include program elements designed to assist merchants and residents in the neighborhoods of larger and medium-sized cities.

**15399.3.** Development plan content.

The plan required by Section 15399.2 shall describe the objectives and strategies of the California Main Street Program, how the program will be coordinated with existing federal, state, local, and private sector small business development and historic preservation efforts, the means by which private investments will be solicited and employed, and methods of selecting and providing assistance to participating and demonstration communities.

**15399.4.** Implementation.

In order to implement this program, the agency shall do all of the following:

(a) Contract with the National Main Street Center of the National Trust for Historic Preservation to assist in accomplishing the program's objectives, to provide technical assistance to the agency, and to assist in developing criteria for the selection of, and aid in selecting, the participating and demonstration communities.

(b) Designate a program manager and staff.

(c) Develop objective criteria for selecting the participating and demonstration communities. The criteria shall include, but shall not be limited to, all of the following:

(1) Evidence of interest and commitment to downtown economic development and historic preservation by both the private and public sectors.

(2) Evidence of potential private investment in the downtown area.

(3) A downtown with sufficient historic fabric to become a foundation for an enhanced community image.

(4) Organization and financial commitment to implement a long-term economic revitalization program which includes a commitment to employ a full-time, professional project manager with an operating budget.

(d) Devise a method of inviting eligible communities to submit applications, select demonstration communities, and additional participating communities in subsequent years.

(e) Include in the program, in addition to the demonstration communities, any city which has on the effective date of this chapter a contract with the National Trust's Main Street Center for a local main street program.

**15399.5.** Program available to cities and countries.

The program established pursuant to Chapter 1577 of the Statutes of 1985 shall continue to provide services to cities with populations of less than 50,000. There shall be three pilot programs for cities with the following characteristics:

(a) For cities with populations in excess of 50,000 but less than 200,000.

(b) For cities with populations of 200,000 or more but less than 400,000.

(c) For cities with a population of 400,000 or more.

**15399.6.** Private contributions.

In order to reduce costs to the state, the agency shall include in the plan a means to solicit private contributions for state and local operations of the program.

**15399.7.** Program fund.

There is hereby established in the State Treasury the California Main Street Program Fund. All private contributions, federal funds, and fees for services, if levied, shall be deposited into the fund for the operation of the program.

**15399.8.** Legislative report.

The agency shall include in its annual report to the Legislature a special report on the effectiveness of this program.

## Local Government



**25373.** County Property; power to regulate for protection of historical resources; non-commercial property owned by religiously affiliated associations.

(a) The board of supervisors may acquire property for the preservation or development of a historical landmark. The board of supervisors may also acquire property for development for recreational purposes and for development of facilities in connection therewith.

(b) The board may, by ordinance, provide special conditions or regulations for the protection, enhancement, perpetuation, or use of places, sites, buildings, structures, works of art and other objects having a special character or special historical or aesthetic interest or value. These special conditions and regulations may include appropriate and reasonable control of the appearance of neighboring private property within public view.

(c) Until January 1, 1995, subdivision (b) shall not apply to noncommercial property owned by a religiously affiliated association or corporation not organized for private profit, whether incorporated as a religious or public benefit corporation, unless the owner of the property does not object to its application. Nothing in this subdivision shall be construed to infringe on the authority of the board of supervisors to enforce special conditions and regulations on any property designated prior to January 1, 1994.

(d) Subdivision (b) shall not apply to noncommercial property owned by any association or corporation that is religiously affiliated and not organized for private profit, whether the corporation is organized as a religious corporation, or as a public benefit corporation, provided that both of the following occur:

(1) The association or corporation objects to the application of the subdivision to its property.

(2) The association or corporation determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.

(e) Nothing in this subdivision shall be construed to infringe on the authority of any legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994, or to authorize any legislative body to override the determination made pursuant to paragraph (2) of subdivision (d).

**27288.2.** County Recordation of Historically designated properties. Pursuant to Section 5029 of the Public Resources Code, after March 15, 1993, the county recorder shall record a certified resolution establishing an historical resources designation issued by the State Historical Resources Commission or a local agency, or unit thereof. For previously designated properties, the county may record the certified resolution establishing the historical resources designation upon submission.

## City Property

**37361.** Power to regulate for protection of historical resources; non-commercial property owned by religiously affiliated associations.

(a) The legislative body may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith.

(b) The legislative body may provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both.

(c) Until January 1, 1995, subdivision (b) shall not apply to noncommercial property owned by a religiously affiliated association or corporation not organized for private profit, whether incorporated as a religious or public benefit corporation, unless the owner of the property does

not object to its application. This subdivision does apply to a charter city. Nothing in this subdivision shall be construed to infringe on the authority of the legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994. Subdivision (b) shall not apply to noncommercial property owned by any association or corporation that is religiously affiliated and not organized for private profit, whether the corporation is organized as a religious corporation, or as a public benefit corporation, provided that both of the following occur:

(1) The association or corporation objects to the application of the subdivision to its property.

(2) The association or corporation determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.

(e) Nothing in this subdivision shall be construed to infringe on the authority of any legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994, or to authorize any legislative body to override the determination made pursuant to paragraph (2) of subdivision (d). This subdivision and subdivision (d) shall apply to a charter city.

**37361.1.** Conveyance to historical association; conditions; reversions. Notwithstanding anything in this chapter to the contrary, the legislative body may convey, upon such terms and conditions as it determines to be in the public interest, any surplus real property, together with any building thereon, owned by the city which has been determined by the legislative body to be of general historical interest, to an association or society the purpose of which is to research and promote the city's historical heritage or to preserve property of historical interest in the city and which is a nonprofit corporation formed under the laws of this state. Any such conveyance shall contain a condition to the effect that the historical nature of the property be restored, preserved, or both, for the benefit of the citizens of the city, and that title will revert to the city in the event that the association or society conveys the property in question to any person or entity which is not a nonprofit corporation involved with preserving and researching the history of the city.

## **Mills Act: Historical Property Contracts**

**50280.** Restriction of property use.

Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable 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 50281 and 50282.

**50280.1.** Qualified historic property.

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

(a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.

(b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

**50281. 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 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.

**50281.1. Fees.**

The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

**50282. Renewal.**

(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 legislative body 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 legislative body 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 legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body 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 legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body 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.

**50284. Cancellation.**

The legislative body 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 legislative body 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.

**50285. Consultation with state commission.**

No contract shall be canceled under Section 50284 until after the legislative body 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 property within the historic zone and shall be published pursuant to Section 6061.

**50286. Cancellation.**

(a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 121/2 percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county 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.

**50287. Action to enforce contract.**

As an alternative to cancellation of the contract for breach of any condition, the county, city, 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.

**50288. 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 legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

**50289. Annexation by city.**

In the event that property restricted by a contract with a 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.

**50290. Consultation with state commission.**

Local agencies 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.

## **General Plans**

**65303. Authority for preservation elements.**

The general plan may include any other elements or address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

# Health and Human Safety Code

## Human Remains

### **7050.5.** Removal of Human Remains.

(a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (l) of Section 5097.94 of the Public Resources Code or to any person authorized to implement Section 5097.98 of the Public Resources Code.

(b) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.

(c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

## Hazardous Buildings

### **17922.2.** Hazardous Building Ordinances and Programs.

(a) Notwithstanding any other provisions of this part, ordinances and programs adopted on or before January 1, 1993, that contain standards to strengthen potentially hazardous buildings pursuant to subdivision (b) of Section 8875.2 of the Government Code, shall incorporate the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials published in the California Building Standards Code, except for standards found by local ordinance to be inapplicable based on local conditions, as defined in subdivision (b), or based on an approved study pursuant to subdivision (c), or both. Ordinances and programs shall be updated in a timely manner to reflect changes in the model code, and more frequently if deemed necessary by local jurisdictions.

(b) For the purpose of subdivision (a), and notwithstanding the meaning of "local conditions" as used elsewhere in this part and in Part 2.5 (commencing with Section 18901), the term "local conditions" shall be limited to those conditions that affect the implementation of seismic strengthening standards on the following only:

(1) The preservation of qualified historic structures as governed by the State Historical Building Code (Part 2.7 (commencing with Section 18950)).

(2) Historic preservation programs, including, but not limited to, the California Mainstreet Program.

(3) The preservation of affordable housing.

(c) Any ordinance or program adopted on or before January 1, 1993, may include exceptions for local conditions not defined in subdivision (b) if the jurisdiction has approved a study on or before January 1, 1993, describing the effects of the exceptions. The study shall include socioeconomic impacts, a seismic hazards assessment, seismic retrofit cost comparisons, and earthquake damage estimates for a major earthquake, including the differences in costs, deaths, and injuries between full compliance with Appendix Chapter 1 of the Uniform Code for Building Conservation or the Uniform Building Code and the ordinance or program. No study shall be required pursuant to this subdivision if the exceptions for local conditions not defined in subdivision (b) result in standards or requirements that are more stringent than those in Appendix Chapter 1 of the Uniform Code for Building Conservation.

(d) Ordinances and programs adopted pursuant to this section shall conclusively be presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

## **State Historic Building Code**

### **18950. Short title.**

This part shall be known and may be cited as the "State Historical Building Code."

### **18951. Purpose.**

It is the purpose of this part to provide alternative building regulations and building standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of buildings or structures designated as historic buildings. Such alternative building standards and building regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored architectural elements and features, to encourage energy conservation and a cost-effective approach to preservation, and to provide for the safety of the building occupants.

### **18952. Application.**

This part shall apply to all qualified historical structures as defined in Section 18955.

### **18953. Intent.**

It is the intent of this part to provide means for the preservation of the historical value of designated buildings and, concurrently, to provide reasonable safety from fire, seismic forces or other hazards for occupants of such buildings, and to provide reasonable availability to and usability by, the physically handicapped.

### **18954. Repairs, alterations and additions.**

Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of a historical building or structure may be made if they conform to this part. The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a historical building or structure. A state agency shall apply the alternative building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a historical building or structure. The application of any alternative standards for the provision of access to the physically handicapped or exemption from access requirements shall be done on a case-by-case and item-by-item basis, and shall not be applied to an entire building or structure without individual consideration of each item, and shall not be applied to related sites or areas except on an item-by-item basis.

**18955. Qualified historical building.**

For the purposes of this part, a qualified historical building or structure is any structure, collection of structures, and their associated sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. This shall include structures on existing or future national, state or local historical registers or official inventories, such as the National Register of Historic Places, State Historical Landmarks, State Points of Historical Interest, and city or county registers or inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

**18956. Application of government code, public resources code and other statutes.**

The application of the provisions of Part 5.5 (commencing with Section 19955) of Division 13 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, Division 15 (commencing with Section 25000) of the Public Resources Code, and of any other statute or regulation, as they may apply to qualified historical buildings or structures, shall be governed by this part.

**18957. Authorized building and fire officials.**

Nothing in this part shall be construed to prevent authorized building or fire officials from the performance of their duties when in the process of protecting the public health, safety, and welfare.

**18958. Additional agencies authorized to adopt rules.**

Except as provided in Section 18930, the following state agencies, in addition to the State Historical Building Safety Board, shall have the authority to adopt rules and regulations pursuant to the State Historical Building Code governing the rehabilitation, preservation, restoration, related reconstruction, safety, or relocation of qualified historical buildings and structures within their jurisdiction:

- (a) The Office of the State Architect.
- (b) The State Fire Marshal.
- (c) The State Building Standards Commission, but only with respect to approval of building standards.
- (d) The Department of Housing and Community Development.
- (e) The Department of Transportation.
- (f) Other state agencies that may be affected by this part.

**18959. Administration and enforcement.**

(a) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all state agencies shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction.

(b) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all local building authorities shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdictions where applicable.

(c) The State Historical Building Safety Board shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local building authorities and state agencies at cost.

(d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5.

(e) Regular and alternative building standards published in the California Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law.

(f) When administering and enforcing the provisions of this part, all local agencies may make changes or modifications in the requirements contained in the State Historical Building Code, as described in Section 18944.7, as it determines are reasonably necessary because of local climatic, geological, seismic, and topographical conditions. The local agency shall make an

express finding that the modifications or changes are needed, and the finding shall be available as a public record. A copy of the finding and change or modification shall be filed with the State Historical Building Safety Board. No modification or change shall become effective or operative for any purpose until the finding and modification or change has been filed with the board.

**18959.5.** Alternative building standards; rules and regulations.

Subject to the applicable provisions of Part 2.5 (commencing with Section 18901) of this division, the State Historical Building Safety Board shall adopt and submit alternative building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and may adopt, amend, and repeal other alternative rules and regulations under this part which the board has recommended for adoption under subdivision (b) of Section 18960 by the State Architect or other appropriate state agencies.

**18960.** State historical building safety board.

(a) A State Historical Building Safety Board is hereby established within the Office of the State Architect which shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building and preservation oriented organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part or any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard wishes to appeal the issue for resolution to the State Historical Building Safety Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Safety Board shall, upon making a decision on an appeal pursuant to paragraph (1), send a copy to the State Building Standards Commission.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Safety Board. A copy of an interpretation decision shall be sent to the State Building Standards Commission in the same manner as paragraph (2).

(4) The State Historical Building Safety Board may charge a reasonable fee, not to exceed the cost of the service, for requests for copies of their decisions and for requests for reviews by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established, for use by the State Historical Building Safety Board. The State Historical Building Code Fund and the fees collected therefor, and the budget of the State Historical Safety Board, shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design, construction, and preservation organizations experienced in dealing with historic buildings. Unless otherwise indicated, each named organization shall appoint its own representatives. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

- (1) Office of the State Architect.
- (2) The State Fire Marshal.
- (3) The State Historical Resources Commission.



- (4) The California Occupational Safety and Health Standards Board.
- (5) California Council, American Institute of Architects.
- (6) Structural Engineers Association of California.
- (7) A mechanical engineer, Consulting Engineers Association of California.
- (8) An electrical engineer, Consulting Engineers Association of California.
- (9) California Council of Landscape Architects.
- (10) The Department of Housing and Community Development.
- (11) The Department of Parks and Recreation.
- (12) County Supervisors Association of California.
- (13) League of California Cities.
- (14) The Office of Statewide Health Planning and Development.
- (15) The Department of Rehabilitation.
- (16) The California Chapter of the American Institute of City Planners.
- (17) The Department of Transportation.
- (18) The California Preservation Foundation.
- (19) The Seismic Safety Commission.
- (20) The California Building Officials.

The 20 members listed above shall select a building contractor as a member of the board. The members shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board. Each of the appointing authorities shall appoint, in the same manner as for members, an alternate in addition to a member. The alternate member shall serve in place of the member at such meetings of the board as the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in the place of the member. The board may appoint, from time to time, as it deems necessary, consultants who shall serve without pay but shall receive actual and necessary expenses as approved by the board.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

**18961.** Review enforcement and administration.

All state agencies which enforce and administer approvals, variances, or appeals procedures or decisions affecting the preservation or safety of the historical aspects of historical buildings shall use the alternative provisions of this part and shall consult with the State Historical Building Safety Board to obtain its review prior to undertaking action or making decisions on variances or appeals which affect historical buildings.

## **Marks Act: Historical Rehabilitation**

**37600.** Short title.

This part shall be known and may be cited as the Marks Historical Rehabilitation Act of 1976.

**37601.** Legislative finding and declaration.

The Legislature finds and declares that properties and structures of historical or architectural significance are an essential public resource and that it is necessary and essential that cities, counties, and cities and counties be authorized to make long-term, low-interest loans to finance the rehabilitation of properties of historic or architectural significance. Unless local agencies have the authority to provide loans for the rehabilitation of historic properties, many properties of historic or architectural significance will continue to deteriorate at an accelerated rate because loans from private sources are not sufficiently available for their rehabilitation. It shall be the policy of the state to preserve, protect, and restore the historical and architectural resources of the state.

### **37602. Definitions.**

Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Financing" means the lending of money or thing of value for the purpose of historical rehabilitation of historical properties and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to historical rehabilitation, the acquisition of historical properties for the purpose of historical rehabilitation, or the acquisition of historical properties rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(c) "Historical rehabilitation" means the reconstruction, restoration, renovation, or repair of the interiors or exteriors of historical properties or their relocation for the purposes of restoring or preserving their historical or architectural significance or authenticity, preventing their deterioration or destruction, continuing their use, providing for their feasible reuse, or providing for the safety of the occupants or passersby. "Historical rehabilitation" includes, but is not limited to, the repairing of architectural facades or ornamentation; removal of inappropriate additions or materials; replacement of facades, ornamentation, or architectural elements previously removed; repairing of roofs, foundations, and other essential structural elements; installing parking areas, if required by local regulation or law for the use for which the property is intended after rehabilitation; or any work done on a historical property in order to comply with rehabilitation standards. "Historical rehabilitation" also includes the cost of interest during construction on a historical rehabilitation loan and incidental expenses directly relating to the historical rehabilitation, including but not limited to architect and engineering fees and the costs of financing. "Historical rehabilitation" does not include the purchase, installation, or restoration of furnishings. Notwithstanding the foregoing, "historical rehabilitation" includes, but is not limited to, the purchase and installation of fixtures necessary for the use for which the property is intended after rehabilitation. By way of example and not limitation, equipment may include fire escapes, if required by local regulation for the use, and heating-ventilating-and-air-conditioning systems; if the intended use is a restaurant, "historical rehabilitation" may include, but is not limited to, the purchase and installation of fixed improvements which are installed as part of the historical property, including stoves, refrigerators, freezers, sinks, dishwashers, and work tables, but shall not include furnishings, such as pots, pans, dishes, or silverware.

(d) "Historical rehabilitation area" is a geographic area, with specific boundaries, which is designated by a local agency as an area in which a historical rehabilitation financing program shall apply. It may encompass the entire jurisdiction of the local agency, or any portions thereof, including single parcels.

(e) "Historical property" means any building or part thereof, object, structure, monument, or collection thereof deemed of importance to the history, architecture, or culture of an area as determined by an appropriate governmental agency. An appropriate governmental agency is a local official historic preservation board or commission, a legislative body of a local agency, or the State Historical Resources Commission. "Historical property" includes objects, buildings, structures, monuments, or collections thereof on existing national, state, or local historical registers or official inventories, such as the National Register of Historic Places and State Historical Landmarks.

(f) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(g) "Local agency" means a city, county, city and county, or redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(h) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for historical rehabilitation pursuant to the provisions of this part. No elective officer of the state

or any of its political subdivisions shall be eligible to be a participating party under the provisions of this part.

(i) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the local agency and to aid in financing pursuant to this chapter on behalf of the local agency, for which service the qualified mortgage lender shall be reasonably compensated. Such a mortgage lender shall be a state or national bank, a federally or state-chartered savings and loan association, or a trust company or mortgage broker which is capable of providing such service or otherwise aiding in financing pursuant to this chapter.

(j) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of historical properties, including any higher standards adopted by the local agency as part of its historical rehabilitation financing program and including standards established pursuant to Part 2.7 (commencing with Section 18950) of Division 13, except that, for properties listed on or eligible for listing on the National Register of Historical Places, "rehabilitation standards" shall mean, at a minimum, those standards set forth by the United States Department of Interior as "The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" as those standards may be applicable to any particular historical rehabilitation.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of historical rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

**37603. Request for information by SHPO.**

The local agency on request shall submit information regarding its programs to the State Historic Preservation Officer.

**37620. Bonds and bond anticipation notes.**

The local agency may issue bonds and bond anticipation notes of the local agency for the purpose of financing historical rehabilitation authorized by this part and for the purpose of funding or refunding such bonds or notes.

**37621. Fees.**

The local agency may fix fees, charges, and interest rates for financing historical rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the historical rehabilitation financing program. Any change in the interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the legislative body after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part. The local agency may collect interest and principal together with such fees and charges incurred in such financing and may contract to pay any person, partnership, association, corporation, or public agency with respect thereto. The local agency may hold deeds of trust as security for financing historical rehabilitation and may pledge the same as security for repayment of bonds issued pursuant to this part. The local agency may establish the terms and conditions for the financing of historical rehabilitation undertaken pursuant to this part. The local agency may require that the full amount owed on any loan for historical rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation.

**37622. Service of loans.**

The local agency may employ or contract for any engineering, architectural, accounting, collection, economic feasibility, or other services in connection with the servicing of loans made to participating parties, which may be necessary or useful in the judgment of the local agency for the successful financing of the historical rehabilitation. The local agency may pay the reasonable costs of consulting engineers, architects, accountants, construction experts, and economic feasibility experts, if, in the judgment of the local agency, the services are necessary or useful to the successful financing of any historical rehabilitation. The local agency may employ, contract for, and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary or useful in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the local agency.

**37623. Powers.**

In addition to all other powers specifically granted by this part, the local agency may do all things necessary or convenient to carry out the purposes of this part.

**37624. Revenues.**

Revenues shall be the sole source of funds pledged by the local agency for repayment of its bonds. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency but shall be payable solely from revenues. The issuance of bonds shall not directly, indirectly, or contingently obligate the legislative body to levy or pledge any form of taxation or to make any appropriation for their payment.

**37625. Rules and regulations.**

All historical rehabilitation shall be constructed or completed subject to the rules and regulations of the local agency. A local agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of historical rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this part.

**37626. Historical rehabilitation financing program mandatory.**

Prior to the issuance of any bonds or bond anticipation notes of the local agency for historical rehabilitation, the legislative body shall by ordinance or resolution adopt a historical rehabilitation financing program. The program shall include, but is not limited to, the following items:

(a) Criteria for the selection of historical properties eligible for financing. The criteria may include, but are not limited to, the following items of architectural significance:

- (1) Structures or areas that embody distinguishing characteristics of an architectural style, period, method of construction, or architectural development in a city or county.
- (2) Notable works of a master builder, designer, or architect whose style influenced the city's or county's architectural development, or structures showing the evolution of an architect's style.
- (3) Rare structures displaying a building type, design, or indigenous building form.
- (4) Structures which embody special architectural and design features.
- (5) Outstanding examples of structures displaying original architectural integrity, structurally or stylistically, or both.
- (6) Unique structures or places that act as focal or pivotal points important as a key to the character or visual quality of an area.

(b) The criteria may include the following items of historical significance:

- (1) Sites and structures connected with events significant in the economic, cultural, political, social, civic, ethnic, or military history of a community, state, or nation.
- (2) Structures or areas identified with the lives of historical personages of a community, state, or nation.

(3) Sites and groups of structures representing historical development patterns, including, but not limited to, urbanization patterns, railroads, agricultural settlements, and canals.

(c) Criteria for the selection of historical rehabilitation areas may include, but are not limited to:

(1) Areas constituting a distinct section of the city and having special character, historical, architectural, or aesthetic interest and value.

(2) Areas providing significant examples of architectural styles of the past, or landmarks in the history of architecture.

(3) Areas serving as a reminder of past eras, events, and persons important in local, state, or national history, and illustrating past living styles for future generations to observe, study, and inhabit.

(4) Historical and culturally significant grounds, gardens, and objects.

(d) Following the adoption of the criteria previously provided for in this section, the designation of one or more historical rehabilitation areas, including a description of the area, a map and other related information.

(e) Outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 90 percent of the anticipated value of the property after rehabilitation.

(f) The maximum repayment period for historical rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(g) No less than 90 percent of any loan for historical rehabilitation and shall be used for financing of historical rehabilitation, as defined in this part.

(h) All historical rehabilitation financed pursuant to this chapter shall be done in compliance with the appropriate rehabilitation standards, as defined in subdivision (j) of Section 37602.

(i) The participating party shall commence the historical rehabilitation of a historical property within five years and shall complete the historical rehabilitation of the historical property within 10 years of the date on which the participating party obtained financing pursuant to this part.

**37627.** Historical rehabilitation financing program, permissible.

The historical rehabilitation financing program may include:

(1) A requirement that rehabilitation financed by the program shall meet standards higher than the applicable state or local standards for rehabilitation of properties, including, but not limited to, design guidelines, standards of aesthetics, use of materials, integrity of design, or historical authenticity.

(2) A provision for limitation of the degree or kind of historical rehabilitation eligible for financing, including, but not limited to, rehabilitation of parapets or dangerous parts of facades of historic properties.

(3) A requirement that the local agency receive a legally binding assurance that the property rehabilitated with financing from this program shall be preserved, subject to reasonable conditions. The form and conditions of such assurance shall be specified in a historical rehabilitation financing program.

(4) A capital outlay program for the historical rehabilitation area which identifies the public improvements needed to support private rehabilitation efforts. Such improvements may include street improvements, street closures, street fixtures, and landscaping.

(5) If the program is likely to result in anticipated increases in rents or other housing costs which would cause displacement of residents of historic properties, or is likely to result in residents paying a disproportionately large percentage of their incomes for housing, a commitment that the local agency shall make efforts to prevent displacement of residents. Such efforts shall include, but are not limited to, utilization of federal, state, or local funding programs which may be available for rent subsidies.

(6) A provision for control of rents if controls are included in order to prevent precipitous increases in rent which the rehabilitation would engender. Such provision may include a requirement that the borrower agree during the term of the loan not to raise the rental amount over an amount which the local agency establishes as a fair rate of return for similar investments and will allow for increases that are reasonably necessary to provide for proper maintenance of the property.

**37628. Citizen participation.**

Prior to the adoption of an historical rehabilitation financing program and the designation of an historical rehabilitation area, the local agency shall provide for citizen participation by persons who will be affected by historical rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the historical rehabilitation program.

"Citizen participation" shall include, but is not limited to:

(a) Holding a public meeting to inform the public of the proposed historical rehabilitation financing program.

(b) Holding a public hearing prior to the adoption of the historical rehabilitation financing program and the designation of an historical rehabilitation area.

(c) Public notice by the local agency, at least seven days in advance of a public meeting or hearing, in a newspaper of general circulation in the area, of the time and place of a meeting or hearing and a general description of the program.

(d) Dissemination by the local agency, at least seven days in advance of a public meeting or hearing, by mailing to those individuals or groups which have requested notification, of information relating to the time and place of a meeting or hearing and a general description of the program.

(e) Establishment of a citizen advisory board for the purpose of providing recommendations to the legislative body on the contents of the historical rehabilitation financing program. Members of the citizens advisory board shall be appointed by the legislative body and shall include one or more representatives of owners of properties affected by the program, one or more representatives of residents or occupants (if any) of properties to be affected by the program, one or more representatives of the local community groups (if any) known by the legislative body to be concerned with historical rehabilitation, and others as the legislative body may deem appropriate. An existing local official historic preservation board or commission may be appointed as the citizens advisory board, provided that, in addition, representatives as required by this section are also appointed.

**37629. Adoption of criteria of selection.**

No financing shall be provided under this part until criteria required by Section 37626 have been adopted. Properties eligible for financing shall be located within a designated historical rehabilitation area. Prior to granting financial assistance, the local agency shall find that the funds loaned shall be used for the purpose of historical rehabilitation.

**37630. Prohibition discrimination.**

The local agency shall require that any property which is rehabilitated with financing obtained under this part shall be open, upon sale or rental of any portion thereof, to all regardless of race, color, religion, national origin, or ancestry. The local agency shall also require that contractors and subcontractors engaged in historical rehabilitation financed under this part provide equal opportunity for employment, without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry. All contracts and subcontracts for historical rehabilitation financed under this part shall be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry.

**37631. Limitation of actions.**

Any action challenging the legality of an historical rehabilitation financing program, or of the selection of historical properties for rehabilitation pursuant to this part, shall be commenced within 60 days of the adoption of such program or within 60 days of such selection.

**37640. Negotiable bonds.**

(a) A local agency may issue its negotiable bonds or notes for the purpose of financing historical rehabilitation, including the rehabilitation of (1) single properties for single participating parties, (2) a series of properties for a single participating party, (3) single properties for several participating parties, or (4) several properties for several participating parties. In anticipation of

the sale of such bonds, the local agency may issue negotiable bond anticipation notes and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the local agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing such notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the local agency may contain except that any such note or renewal thereof shall mature at a time not later than two years from the date of the issuance of the original note.

(b) Every issue of its bonds shall be a special obligation of the local agency payable from all or any part of the revenues specified in this part. The bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.

#### **37641. Serial or term bonds.**

The bonds may be issued as serial bonds or as term bonds, or the local agency, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the local agency and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates of issuance, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the local agency may provide. The bonds may be sold at either a public or private sale and for such prices as the local agency shall determine. Pending preparation of the definitive bonds, the local agency may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for such definitive bonds. The local agency may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof, but the discount on any bond so sold shall not exceed 6 percent of the par value thereof.

#### **37642. Terms and conditions.**

Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of the bonds:

(a) The pledge of all or any part of the revenues, as defined in this part, subject to such agreements with bondholders as may then exist.

(b) The interest and principal to be received and other charges to be charged and the amounts to be raised each year thereby, and the use and disposition of the revenues.

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(d) Limitations on the purposes to which the proceeds of a sale of any issue of bonds, then or thereafter issued, may be applied, and pledging such proceeds to secure the payment of the bonds or any issue of bonds.

(e) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(f) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(g) Limitation on expenditures for operating, administration, or other expenses of the local agency.

(h) Specification of the acts or omissions to act which shall constitute a default in the duties of the local agency to holders of its obligations, and providing the rights and remedies of such holders in the event of default.

(i) The mortgaging of any property and the site thereof for the purpose of securing the bondholders.

(j) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

**37643. Personal liability.**

Neither the members of the legislative body of the local agency nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

**37644. Purchase by local agency.**

The local agency shall have the power out of any funds available therefor to purchase its bonds or notes. The local agency may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders.

**37645. Trust agreements.**

In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any historical property, the rehabilitation of which is to be financed out of the proceeds of bonds. The trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper and not in violation of law, including any provisions which may be included in any resolution or resolutions of the local agency authorizing the issuance of bonds pursuant to Section 37642. Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish any indemnity bonds or pledge any securities which may be required by the local agency. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions which the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of historical rehabilitation.

**37646. Enforcement rights and duties.**

Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of such bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of the state or in such resolution, and may enforce and compel the performance of all duties required by this part or by such resolution to be performed by the local agency or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution to be fixed, established, and collected.

**37647. Payment of bonds.**

Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency, but shall be payable solely from the funds specified in this part. All such bonds shall contain on the face thereof a statement to the following effect: Neither the faith and credit nor the taxing power of the (local agency) is pledged to the payment of the principal of or interest on this bond. The issuance of bonds under the provisions of this part shall not directly, indirectly, or contingently obligate the local agency to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.



**37648. Refunding bonds.**

(a) The local agency may provide for the issuance of the bonds of the local agency for the purpose of refunding any bonds of the local agency then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the local agency, for the additional purpose of paying all or any part of the cost of additional historical rehabilitation.

(b) The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the local agency, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the local agency.

(c) Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in escrow pursuant to subdivision (b) may be invested and reinvested as provided in the resolution authorizing the issuance of the bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the local agency to be used by it for any lawful purpose.

(d) That portion of the proceeds of any such bonds designated for the purpose of paying all or any part of the cost of additional historical rehabilitation pursuant to subdivision (a) may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

(e) All bonds issued pursuant to this section shall be subject to the provisions of this part in the same manner and to the same extent as other bonds issued pursuant to this part.

**37649. Legal investments.**

Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

**37650. Exercise of powers for benefit.**

The exercise of the powers granted by this part shall be in all respects for the benefit of the people of this state and for their health and welfare. Any bonds or notes issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions of the state.

**37660. Financing to participating parties.**

The local agency may provide financing to any participating party for the purpose of historical rehabilitation authorized pursuant to an historical rehabilitation financing program. All agreements for loans shall provide that the architectural and engineering design of the historical rehabilitation shall be subject to the standards which may be established by the local agency and that the work of historical rehabilitation shall be subject to any supervision the local agency

deems necessary. The local agency may provide financing to any qualified mortgage lender provided that the qualified mortgage lender shall use the financing to provide financing to any participating party for the purpose of historical rehabilitation authorized pursuant to a historical rehabilitation financing program pursuant to this chapter.

**37661. Loan agreements.**

The local agency may enter into loan agreements with any participating party or qualified mortgage lender relating to historical rehabilitation of any kind or character. The terms and conditions of the loan agreements may be as mutually agreed upon. Any loan agreement may provide the means or methods by which any mortgage taken by the local agency shall be discharged, and it shall contain any other terms and conditions which the local agency may require. The local agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of historical rehabilitation. The rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of the rates, fees, charges, and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to do all of the following:

(a) Pay the principal of and interest on outstanding bonds of the local agency issued to finance the historical rehabilitation as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing bonds. A sufficient amount of the revenues derived from historical rehabilitation may be set aside at regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the local agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the local agency. The use and disposition of moneys to the credit of the sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of bonds. Except as may otherwise be provided in the resolution, the sinking or other similar fund may be a fund for all bonds of the local agency issued to finance the rehabilitation of the historical property of a particular participating party without distinction or priority. The local agency, however, in the resolution may provide that the sinking or other similar fund shall be the fund for a particular historical rehabilitation project or projects and for the bonds issued to finance the historical rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the local agency, and, in which case, the local agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(c) Pay operating and administrative costs of the local agency incurred in the administration of the program authorized by this part.

**37662. Trust funds.**

All moneys received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

# Civil Code

## Easements

### **815.** Conservation Easements legislative findings and declaration.

The Legislature finds and declares that the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California. The Legislature further finds and declares it to be the public policy and in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations.

### **815.1.** Conservation easement defined.

For the purposes of this chapter, "conservation easement" means any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.

### **815.2.** Interest in real property.

(a) A conservation easement is an interest in real property voluntarily created and freely transferable in whole or in part for the purposes stated in Section 815.1 by any lawful method for the transfer of interests in real property in this state.

(b) A conservation easement shall be perpetual in duration.

(c) A conservation easement shall not be deemed personal in nature and shall constitute an interest in real property notwithstanding the fact that it may be negative in character.

(d) The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement.

### **815.3.** Entities authorized to acquire.

Only the following entities or organizations may acquire and hold conservation easements:

(a) Tax-exempt nonprofit organization qualified under Section 501 (c)(3) of the Internal Revenue Code and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) The state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this chapter.

### **815.4.** Grantors.

All interests not transferred and conveyed by the instrument creating the easement shall remain in the grantor of the easement, including the right to engage in all uses of the land not affected by the easement nor prohibited by the easement or by law.

### **815.5.** Recordation.

Instruments creating, assigning, or otherwise transferring conservation easements shall be recorded in the office of the county recorder of the county where the land is situated, in whole or in part, and such instruments shall be subject in all respects to the recording laws.

**815.7. Enforcement.**

(a) No conservation easement shall be unenforceable by reason of lack of privity of contract or lack of benefit to particular land or because not expressed in the instrument creating it as running with the land.

(b) Actual or threatened injury to or impairment of a conservation easement or actual or threatened violation of its terms may be prohibited or restrained, or the interest intended for protection by such easement may be enforced, by injunctive relief granted by any court of competent jurisdiction in a proceeding initiated by the grantor or by the owner of the easement.

(c) In addition to the remedy of injunctive relief, the holder of a conservation easement shall be entitled to recover money damages for any injury to such easement or to the interest being protected thereby or for the violation of the terms of such easement. In assessing such damages there may be taken into account, in addition to the cost of restoration and other usual rules of the law of damages, the loss of scenic, aesthetic, or environmental value to the real property subject to the easement.

(d) The court may award to the prevailing party in any action authorized by this section the costs of litigation, including reasonable attorney's fees.

**815.9. Political Subdivision; authority to hold comparable easements.**

Nothing in this chapter shall be construed to impair or conflict with the operation of any law or statute conferring upon any political subdivision the right or power to hold interests in land comparable to conservation easements, including, but not limited to, Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of, Chapter 6.5 (commencing with Section 51050), Chapter 6.6 (commencing with Section 51070) and Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of, and Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7 of, the Government Code, and Article 1.5 (commencing with Section 421) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

**815.10. Enforceable restrictions.**

A conservation easement granted pursuant to this chapter constitutes an enforceable restriction, for purposes of Section 402.1 of the Revenue and Taxation Code.

**816. Liberal Construction of Chapter.**

The provisions of this chapter shall be liberally construed in order to effectuate the policy and purpose of Section 815.

# Revenue and Taxation Code

## Historic Property Restriction

### **439.** Historical Property Restrictions; enforceably restricted property.

For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

### **439.1.** Historical Property; definitions.

For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, "qualified historical property" includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, "qualified historical property" includes only that area of reasonable size that is used as a site for the historical improvements.

### **439.2.** Historical Property; valuation.

When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

#### **439.3. Historical Property; notice of nonrenewal.**

Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

**439.4. Historical Property; recordation.**

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

## Penal Code

### Destruction of Historical Properties

**6221/2.** Destruction, defacement of objects of archeological or historical interest. Every person, not the owner thereof, who willfully injures, disfigures, defaces, or destroys any object or thing of archeological or historical interest or value, whether situated on private lands or within any public park or place, is guilty of a misdemeanor.



# **REGULATIONS**

# California Code of Regulations

## California Register of Historical Resources (Title 14, Chapter 11.5)

### **4850.** Authority.

On September 27, 1992, Assembly Bill 2881 (Statutes of 1992, Chapter 1075) was signed into law amending the Public Resources Code as it affects historical resources. This legislation, which became effective on January 1, 1993, also created the California Register of Historical Resources, henceforth the California Register.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

### **4850.1.** Purpose.

The California Register is an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change.

Definitions are found in Appendix A, "A Glossary of Terms", of this chapter.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

### **4851.** Historical Resources Eligible for Listing in the California Register of Historical Resources.

The California Register consists of historical resources that are: (a) listed automatically; (b) listed following procedures and criteria adopted by the State Historical Resources Commission, henceforth the Commission; and (c) nominated by an application and listed after a public hearing process.

(a) Historical resources automatically listed in the California Register include the following pursuant to California Public Resources Code Section 5024.1 (d)(1) and (2):

(1) California historical resources listed in, or formally determined eligible for, the National Register of Historic Places, henceforth the National Register. "Formally determined eligible" for the purpose of this section means determined eligible through one of the federal preservation programs administered by the California Office of Historic Preservation, henceforth the Office. Specifically, these programs are the National Register, Tax Certification (Evaluation of Significance, Part 1, 36 CFR Part 67), and National Historic Preservation Act (Section 106, 16 U.S.C. 470f) reviews of federal undertakings.

(2) California Registered Historical Landmarks, henceforth Landmarks, from No. 770 onward.

(3) Upon effective date of this chapter, the Office will notify resource owners by first class mail that as a result of listing or being formally determined eligible for listing in the National Register of Historic Places, and/or being designated a California Registered Historical Landmark subsequent to, and including No. 770, the resource has been automatically placed in the California Register. The owner(s) will be advised of the criteria for listing in the California Register and procedures for removal found in Sections 4855 and 4856 of this chapter. Removal may be requested at any time, but must satisfy one of the criteria for removal as listed in Section 4856 (a) of this chapter.

(b) Historical resources which require action by the State Historical Resources Commission to be listed in the California Register. The following resources require review and action by the Commission prior to listing, but are not subject to the formal nomination and application procedures described in Section 4851 (c) of this chapter.

(1) Landmarks with numbers preceding No. 770 pursuant to California Public Resources Code Section 5024.1 (d)(2). Procedures for inclusion of landmarks preceding No. 770 in the California Register have not been adopted by the State Historical Resources Commission at the time of inception of this chapter.

(2) California Points of Historical Interest, hereafter Points of Historical Interest, pursuant to California Public Resources Code Section 5024.1 (d)(3). Points of Historical Interest, which have been reviewed by the Office and recommended for listing by the Commission, will be included in the California Register if the following conditions are met:

(A) The resource meets the statutory criteria for the California Register;

(B) A boundary is provided that clearly delineates the area of historic importance;

(C) A list of contributing and noncontributing features is provided. Contributing features are those remaining from the resource's period of historic significance that retain integrity; and

(D) The application is accompanied by the appropriate State Historical Resources Commission approved recordation form, such as the DPR Form 523- Historic Resources Inventory Form.

Historical resource owners shall be notified of proposed Commission actions to nominate Points of Historical Interest to the California Register sixty (60) days prior to the Commission meeting at which a hearing is scheduled.

The Office shall notify resource owners of time and location of the hearing.

The Commission shall hear testimony regarding whether or not the criteria for listing a Point of Historical Interest in the California Register have been met. If the criteria for listing are met, the Commission shall recommend that the historical resource be made a Point of Historical Interest to the Director of the Department of Parks and Recreation. When the Director signs the nomination, the historical resource shall be listed as a Point of Historical Interest and listed in the California Register.

(c) Historical resources which require nomination to be listed in the California Register pursuant to California Public Resources Code Section 5024.1 (e)(1)-(5). Historical resources may be nominated to the California Register by individuals, organizations, or government agencies.

(1) An historical resource or historic district;

(2) An historical resource contributing to the significance of a nominated historic district;

(3) A group of historical resources identified in historic resource surveys, if the survey meets the criteria and standards of documentation listed in Section 4852 (e);

(4) An historical resource, a group of historical resources, or historic districts designated or listed as city or county landmarks or historical resources or districts pursuant to any city or county ordinance, if the criteria for designation or listing under the ordinance have been reviewed by the Office as meeting the California Register criteria as stated in this chapter and approved by the Commission; or

(5) An historical resource or a group of local landmarks or historical resources designated under any municipal or county ordinance which has not been previously approved by the Office.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470a), as amended; National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347); Title 36, Parts 60, 63, 67, and 800, Code of Federal Regulations; Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4852. Types of Historical Resources and Criteria For Listing in the California Register of Historical Resources.**

The criteria for listing historical resources in the California Register are consistent with those developed by the National Park Service for listing historical resources in the National Register, but have been modified for state use in order to include a range of historical resources which better reflect the history of California. Only resources which meet the criteria as set out below may be listed in or formally determined eligible for listing in the California Register.

(a) Types of resources eligible for nomination:

(1) Building. A resource, such as a house, barn, church, factory, hotel, or similar structure created principally to shelter or assist in carrying out any form of human activity. "Building" may also be used to refer to an historically and functionally related unit, such as a courthouse and jail or a house and barn;

(2) Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing building, structure, or object. A site need not be marked by physical remains if it is the location of a prehistoric or historic event, and if no buildings, structures, or objects marked it at that time. Examples of such sites are trails, designed landscapes, battlefields, habitation sites, Native American ceremonial areas, petroglyphs, and pictographs;

(3) Structure. The term "structure" is used to describe a construction made for a functional purpose rather than creating human shelter. Examples of structures include mines, bridges, and tunnels;

(4) Object. The term "object" is used to describe those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed, as opposed to a building or a structure. Although it may be movable by nature or design, an object is associated with a specific setting or environment. Objects should be in a setting appropriate to their significant historic use, role, or character. Objects that are relocated to a museum are not eligible for listing in the California Register. Examples of objects include fountains, monuments, maritime resources, sculptures, and boundary markers; and

(5) Historic district. Historic districts are unified geographic entities which contain a concentration of historic buildings, structures, objects, or sites united historically, culturally, or architecturally. Historic districts are defined by precise geographic boundaries. Therefore, districts with unusual boundaries require a description of what lies immediately outside the area, in order to define the edge of the district and to explain the exclusion of adjoining areas. The district must meet at least one of the criteria for significance discussed in Section 4852 (b)(1)-(4) of this chapter.

Those individual resources contributing to the significance of the historic district will also be listed in the California Register. For this reason, all individual resources located within the boundaries of an historic district must be designated as either contributing or as noncontributing to the significance of the historic district.

(b) Criteria for evaluating the significance of historical resources. An historical resource must be significant at the local, state, or national level under one or more of the following four criteria:

(1) It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;

(2) It is associated with the lives of persons important to local, California, or national history;

(3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; or

(4) It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

(c) Integrity. Integrity is the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance described in section 4852 (b) of this chapter and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing.

Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance.

It is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.

(d) Special considerations:

(1) Moved buildings, structures, or objects. The Commission encourages the retention of historical resources on site and discourages the non-historic grouping of historic buildings into parks or districts. However, it is recognized that moving an historic building, structure, or object is sometimes necessary to prevent its destruction. Therefore, a moved building, structure, or object that is otherwise eligible may be listed in the California Register if it was moved to prevent its demolition at its former location and if the new location is compatible with the original character and use of the historical resource. An historical resource should retain its historic features and compatibility in orientation, setting, and general environment.

(2) Historical resources achieving significance within the past fifty (50) years. In order to understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. A resource less than fifty (50) years old may be considered for listing in the California Register if it can be demonstrated that sufficient time has passed to understand its historical importance.

(3) Reconstructed buildings. Reconstructed buildings are those buildings not listed in the California Register under the criteria in Section 4852 (b)(1), (2), or (3) of this chapter. A reconstructed building less than fifty (50) years old may be eligible if it embodies traditional building methods and techniques that play an important role in a community's historically rooted beliefs, customs, and practices; e.g., a Native American roundhouse.

(e) Historical resource surveys. Historical resources identified as significant in an historical resource survey may be listed in the California Register. In order to be listed, the survey must meet the following: (1) the resources meet the criteria of Section 4852 (b)(1)-(4) of this chapter; and (2) the survey documentation meets those standards of resource recordation established by the Office in the "Instructions for Nominating Historical Resources to the California Register" (August 1997), Appendix B.

(1) The resources must be included in the State Historical Resources Inventory at the time of listing of the survey by the Commission.

(2) The Office shall review all surveys to assure the standards of resource recordation, which can be found in the "Instructions for Nominating Historical Resources to the California Register" (August 1997), Appendix B of this chapter, have been met. If the survey meets the standards, the Office shall recommend to the Commission that all resources with a significance rating of category 1 through 4, or any subcategories thereof, on DPR Form 523 be listed in the California Register. The Office shall review all category 5 determinations for consistency with the California Register criteria of significance as found in Section 4852 (b) of this chapter. Office review will occur within sixty (60) days of receipt of the survey. At the end of sixty (60) days, the Office will either: (1) forward the survey for consideration by the Commission or (2) request additional information.

The status codes, established to indicate eligibility to the National Register of Historic Places, have the following meanings:

- (A) Category 1--Listed in the National Register of Historic Places;
- (B) Category 2--Formally determined eligible for listing in the National Register;
- (C) Category 3--Appears eligible for listing in the National Register;
- (D) Category 4--Could become eligible for listing in the National Register; or
- (E) Category 5--Locally significant.

(3) If the results of the survey are five or more years old at the time of nomination, the documentation for a resource, or resources, must be updated prior to nomination to ensure the accuracy of the information. The statute creating the California Register requires surveys over five (5) years old to be updated.

(f) Historical resources designated under municipal or county ordinances. Historical resources designated under municipal or county ordinances which have the authority to restrict

demolition or alteration of historical resources, where the criteria for designation or listing have not been officially approved by the Office, may be nominated to the California Register if, after review by Office staff, it is determined that the local designation meets the following criteria:

(1) The ordinance provides for owner notification of the nomination of the resource for local historical resource designation and an opportunity for public comment.

(2) The criteria for municipal or county historical resource designation consider the historical and/or architectural significance and integrity of the historical resource and require a legal description of the resource.

(3) The designating authority issues findings or statements describing the basis of determination for designation.

(4) The designation provides some measure of protection from adverse actions that could threaten the historical integrity of the historical resource.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code. Reference: Title 36, Part 60, Code of Federal Regulations; Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4853. Application Format.**

Applications shall be submitted on: (1) DPR Form 523-California Historic Resources Inventory Form, dated prior to January 1995; (2) DPR Form 422-Archeological Site Record, dated prior to January 1995; or (3) DPR Form 523 including supplemental forms DPR 523 (c), (f), (g), (h), (i), (j), (k), and/or (l) dated prior to January 1995, as appropriate. In addition, the applicant shall submit a set of clearly labeled photographs, as described in the OHP "Instructions for Nominating Historical Resources to the California Register" (August 1997), Appendix B, with the recordation form. If historical resources are recorded after the effective date of this chapter, a DPR Form 523 must be used. In addition, the Commission may require other information for specific types of historical resources as listed in Section 4853 of this chapter.

(a) General requirements. The requirements of Section 4853 (a)(1)-(4) of this chapter shall apply to all historical resources which are nominated to the California Register:

(1) The applicant shall use the inventory form which corresponds to the date of recordation of the resource. The inventory form shall be accompanied by a cover letter which includes the name of the applicant, the resource owner and local government with land-use control authority, hereafter local government, and a concise statement of significance. The statement of significance should clearly list the justification for the importance of the historical resource.

(2) A sketch map shall be included, clearly showing the boundaries of the nominated resources, the footprint of all contributing and noncontributing resources, a directional North arrow, and scale. Careful and accurate information shall be provided with sufficient detail to ensure that a legal description of the proposed historical resource may be recorded. These details may include the UTM coordinates marked on a section grid, United States Geological Survey maps, parcel number(s), and legally recorded boundary lines. Boundaries of sites with no material evidence of the significant event must be clearly defined on the map on the basis of specific and definitive historical documentation.

(3) One or more color slides and black and white or color photos shall be provided to properly document the historical resource. Color slides should provide a realistic overview of the historical resource in its setting or detailed views of the historical resource itself, as appropriate. The Commission may require that the applicant provide photos of contributing historical resources on surveys which are over five (5) years old. All photos should be labeled, including the date taken and a location of the image relative to the sketch map described above.

(4) Primary numbers will be assigned by the Regional Information Center. The applicant shall provide a copy of the application to the Information Center which has responsibility for information regarding historical resources for the county in which the resources are located (see Appendix B) at the same time the application is submitted to the Office. The Office of Historic Preservation will assure primary numbers are assigned.

(b) Information Required for Historical Resources.

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(1) Individual nominated resources. A single completed DPR Form 523 or Form 422 shall be submitted for each historical resource which is individually nominated. For resources recorded prior to the effective date of this chapter either a single completed DPR Form 523 or Form 422 shall be submitted for each historical resource which is individually nominated. If the historical resource is recorded after the effective date of this chapter, a DPR Form 523 (dated January 1995) shall be submitted for each historical resource.

(2) Historic districts. In the case of an historic district, the applicant shall complete one master form for the district as a whole, with an abbreviated form for each contributing resource. A list of noncontributing resources is required and must be provided in the cover letter. Owner information for each resource must be provided in the cover letter. Slides of contributing historical resources and/or streetscapes shall be included. Black and white or color photographs of each contributing historical resource and representative streetscape are required.

(3) Archeological resources. Archeological resources will be considered for nomination only after having been assigned a Site Trinomial Number by the appropriate Regional Information Center (see Appendix B). The Commission may require additional documentation to more accurately identify and define the site. Depending upon the date the resource was recorded, the DPR Form 523 (dated January 1995) or Form 422 must be accompanied by a statement of significance or research design which explains why the resource qualifies for listing in the California Register.

(4) Historical resource survey. Historical resources which have recordation forms already on file in the inventory with the Office will not require additional DPR Inventory Forms 523 (dated January 1995) unless the Commission requests re-evaluation or re-survey. A cover letter shall provide the owner and the local government information as described in Section 4853 (a)(1) of this chapter, an overview of survey methodology to verify that the survey meets the standards discussed in Section 4852 (e) of this chapter and adequate mapping showing all areas surveyed.

(5) Historical resources and historic districts designated or listed as city or county landmarks, historic resources or districts pursuant to any city or county ordinance, and local landmarks and other resources designated under municipal or county ordinances.

DPR Form 523 shall be submitted for all local landmarks or locally designated historical resources that have not previously been documented or do not have approved recordation forms on file with the Office. A cover letter shall be submitted, as described in Section 4853 (a) of this chapter, and it must include information regarding resource ownership, local government, and a list of all resources included in the nomination. A copy of the ordinance or criteria for local designation must be submitted with the application. Submitting a copy of the ordinance is required whether the resource was designated under a local historic preservation ordinance, which may cover a group or category of historical resources, or under an ordinance or resolution designating only the specific historical resource which is being nominated.

NOTE: Authority cited: Sections 5020.4, 5024.1, 5024.5, and 5024.6, Public Resources Code. Reference: Section 27288.2, Government Code; Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 5029, 21084, and 21084.1, Public Resources Code.

#### **4854. Application Procedures.**

(a) Ownership information. It is the responsibility of the applicant to provide complete information regarding the ownership of those historical resources which the applicant wishes to be included in the California Register. The ownership data must include assessor parcel numbers, maps, and a legal description of the resources. The applicant shall provide the owners' names and addresses on mailing labels, as well as any information necessary to establish whether a proposed resource or district has more than one owner. A boundary map and a list of all resource owners within the proposed district boundaries shall be included for each district. The list shall indicate whether the property of each owner is contributing or noncontributing to the significance of the district. Resources will not be listed in the California Register over the owner's objection, or in the case of a district, a majority of resource owners, but will be "formally determined eligible for listing" (see Section 4855(c) of this chapter).

(b) Submitting the application. Historical resources may be nominated by any individual or group including, but not limited to, members of the general public, private organizations, or local government with control authority over the designated historical resource.

(1) Local government, in whose jurisdiction the historical resource is located, shall submit their applications directly to the Office.

(2) If the applicant is not a local government, the applicant must notify the clerk of the local government by certified mail that an application will be filed with the Office and request that the local government join in the nomination and/or provide comments. Notification to the clerk of the local government shall include a copy of the application. Ninety (90) days after notification to the clerk of the local government, the applicant shall forward all completed applications and any comments to the Office.

(c) If the applicant is not the owner of the resource being nominated, within thirty (30) days of receipt of the application, the Office will provide a copy of the application to the owner and request any additional information.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4855. State Historical Resources Commission's Public Hearing of a Nomination.**

After technical review by the Office, the nomination will be scheduled for a hearing by the State Historical Resources Commission. The Commission will only consider comments that relate to the criteria for listing a resource in the California Register.

(a) Public notification. At least sixty (60) days before the hearing to consider the nomination for listing, the Office shall do all of the following:

(1) Notify all affected historical resource owners that their resource has been nominated for listing; the time and place set for the hearing; and that the Commission will consider public comments related to whether the resource meets the criteria for listing in the California Register as well as any objections of the owner(s).

(2) Notify the local government and interested local agencies of the time and place set for the hearing and the opportunity for public comments in support of or opposition to the proposed listing.

(3) Notify the general public by means of the Commission's hearing notices of the scheduled hearing date and the opportunity to comment on the nomination.

(4) In the case of an historic district, nominated either individually or as part of a survey, the Office must make a reasonable effort to obtain the identities and addresses of all owners of resources within the proposed district. The Commission must provide notice of the hearing and opportunity to comment or object to all identified owners whether or not their properties were nominated as contributing resources.

(b) Support of or objections to the nomination. The Commission shall consider public comments when it determines whether to list the historical resource in the California Register. Any person or organization, including the following, may submit supporting or opposing comments to the Office before the hearing.

(1) Resource owners. Private resource owners must make any objection to listing in a notarized letter stating that they are the sole or partial owners, that they object to the listing, and the reasons for their objection. Letters of support from private resource owners are welcomed, but not required. If a private resource owner does not reply to a properly transmitted letter of notification, the absence of a reply will be interpreted as consent to the historical resource designation.

(A) Each owner or partial owner of a privately owned individual historical resource has one vote regardless of what percentage of the resource such person owns. Within a district, each owner has one vote regardless of how many buildings, or what percentage of the area of the proposed district, such person owns.

(B) If a majority of private resource owners should object for any reason, the proposed individual resource or district will not be listed. However, in such cases, the Commission shall designate the resource as "formally determined eligible for listing in the California Register." A



resource that has been designated as eligible may be listed at a later time if, and when, the objection is withdrawn.

(2) Local government. Support of, and objections by, local government are to be given full and careful consideration. When the local government objects to the listing, the findings of the Commission shall identify the historical or cultural significance of the resource and explain why the resource was listed in the California Register over the objections of the local government.

(c) Determinations of eligibility and formal listing. A privately owned resource may not be listed in the California Register over the objection of its owner, or in the case of a resource with multiple owners, over the objection of a majority of private resource owners. A district may not be listed in the California Register over the objection of a majority of private resource owners within the proposed district. If a district is listed, it will be listed in its entirety and all contributing resources will be listed, whether or not the owner of that resource has objected.

(1) If a private resource cannot be listed solely due to owner objection, the Commission shall designate the resource as "formally determined eligible for listing."

(2) An historical resource shall be considered formally "listed in the California Register" when the Commission, upon reviewing the nomination, designates the resource as eligible for listing and accepts it for official listing in the California Register.

(3) The Commission shall adopt written findings to support its determinations. Findings shall include a description of the historical resources and the historical or cultural significance of the resources and identification of those criteria on which any determination was based.

(4) Within forty-five (45) days after approval or disapproval of a nomination by the Commission, the Officer shall notify the applicant, resource owner(s), and the affected local government in writing of the Commission's decision.

NOTE: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code. Reference: Title 36, Part 60, Code of Federal Regulations; Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4856. Criteria and Procedures for Removal of an Historical Resource from the California Register of Historical Resources.**

Historical resources are formally determined eligible for, or listed in, the California Register on the basis of an evaluation of the historical data by qualified professionals. The Commission may, at its discretion, consider a request for formal de-listing after a public hearing has taken place.

(a) The Commission may remove an historical resource from the California Register if one of the following criteria is satisfied:

(1) The historical resource, through demolition, alteration, or loss of integrity has lost its historic qualities or potential to yield information; or

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(2) New information or analysis shows that the historical resource was not eligible at the time of its listing.

(b) Documentation supporting a request for removal of an historical resource from the California Register shall be provided to the Commission for its review. The documentation shall include:

(1) A written request from the Officer, resource owner, a member of the public, or local government in which the historical resource is located recommending the removal of the resource, including a detailed justification based on the criteria listed in Section 4856 (a)(1) or (2);

(2) Photographs and other documentation regarding the current condition of the historical resource;

(3) Photographic and archival documentation of the historical resource at the time of listing; and

(4) Complete current ownership information for historical resources included in the listing.

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(c) The Office shall notify the resource owners, the local government in which the historical resource is located, the general public, and the individual, organization, or government authority which made the original nomination at least sixty (60) calendar days prior to the date scheduled for the public hearing. At the hearing, the Commission shall hear comments and receive

information regarding whether or not the criteria for removal of an historical resource from the California Register have been met. If the criteria have been met, the resource shall be removed from the California Register. If the criteria for removal have not been met, the historical resource shall remain in the California Register. The decision of the Commission shall be final unless a request for reconsideration is made pursuant to Section 4857 of this chapter.

(d) The Office shall notify the resource owners, the local government described above, the general public, and the individual, organization, or government agency which made the original nomination within sixty (60) days after reaching a final decision. The decision of the Commission shall be binding.

Note: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4857. Requests for Redetermination by the State Historical Resources Commission.**

Requests for redetermination may be submitted within thirty (30) days after the Commission transmits notice of its final determination. Such requests shall set forth the reasons why the Commission's determination was improper, including all new relevant facts and information.

(a) The Commission has the power to reverse or alter its prior determinations, in whole or in part, if any of the following occur:

(1) There is a significant error in the facts, information, or analysis on which the prior decision was based; or

(2) The prior determination, in light of current information, appears to have been arbitrary, capricious, or based on substantial error.

(b) The Commission shall advise the applicant within sixty (60) days after receipt of a request for redetermination whether it will consider such request, and if so, set the date for a hearing by the Commission.

(c) If the request for redetermination is denied, then the original determination shall become final for all purposes, unless the resource is later shown to be demolished, altered, or has lost its integrity.

Note: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Sections 5020.1, 5020.4, 5020.7, 5024.1, 5024.5, 5024.6, 21084, and 21084.1, Public Resources Code.

#### **4858. Saving Clause.**

If any one or more of the regulations in this chapter, or any portion of any one of these regulations is found or held to be invalid, all other regulations and portions of regulations shall be severable from the invalid regulation or portion and shall be presumed to be valid.

Note: Authority cited: Sections 5020.4, 5024.1, and 5024.6, Public Resources Code.  
Reference: Section 11350, Government Code; California Drive-In Restaurant Asso. v. Clark (1943) 22 Cal.2d 287, 140 P.2d 657; Schenley Affiliated Brands Corp. v. Kirby (1971) 21 Cal.App.3d 177, 98 Cal.Rptr. 609.

### **Appendix A. A Glossary of Terms as used in the California Register of Historical Resources**

Note: Due to the length of this glossary, it has been moved to the end of this section, following the State Historic Building Code regulations.

## **CEQA Guidelines (Title 14, Chapter 3)**

Note: The sections printed here represent only those portions of the guidelines that specifically address historical resources. Article 18 *Statutory Exemptions* also reference historical resources in Sections 15269 *Emergency Projects*; 15279 *Housing for Agricultural Employees*; and 15280 *Lower-income Housing Projects*. The full text of the CEQA Guidelines can be accessed on the Internet at <http://www.ceres.ca.gov/ceqa/>.

**15064.5. Determining the Significance of Impacts to Archeological and Historical Resources.**

(a) For purposes of this section, the term "historical resources" shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4850 et seq.).

(2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

(1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

(2) The significance of an historical resource is materially impaired when a project:

(A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

(3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation

and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

(4) A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.

(5) When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

(c) CEQA applies to effects on archaeological sites.

(1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subsection (a).

(2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.

(3) If an archaeological site does not meet the criteria defined in subsection (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.

(4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

(d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate native americans as identified by the Native American Heritage Commission as provided in Public Resources Code SS5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:

(1) The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).

(2) The requirements of CEQA and the Coastal Act.

(e) In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:

(1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

(A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

(B) If the coroner determines the remains to be Native American:

1. The coroner shall contact the Native American Heritage Commission within 24 hours.

2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased native american.

3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

(2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.

(B) The descendant identified fails to make a recommendation; or

(C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(f) As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

Note: Authority: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21083.2, 21084, and 21084.1, Public Resources Code; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 490.

#### **15126.4** Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale*(1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;
2. Incorporation of sites within parks, greenspace, or other open space;
3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
4. Deeding the site into a permanent conservation easement.

(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21002, 21003, 21100, and 21084.1, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011.

### **15325. Transfers of Ownership of Interest In Land to Preserve Existing Natural Conditions and Historical Resources.**

Class 25 consists of transfers of ownership in interests in land in order to preserve open space, habitat, or historical resources. Examples include but are not limited to:

- (a) Acquisition, sale, or other transfer of areas to preserve existing natural conditions, including plant or animal habitats.
- (b) Acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas.
- (c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.
- (d) Acquisition, sale, or other transfer to prevent encroachment of development into flood plains.
- (e) Acquisition, sale, or other transfer to preserve historical resources.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

**15331. Historical Resource Restoration/Rehabilitation.**

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

Note: Authority cited: Section 21083 and 21087, Public Resources Code. Reference: Section 21084, Public Resources Code.

## **State Historic Building Code Regulations (Title 24, Part 8)**

### **[NOT INCLUDED]**

The regulations implementing the State Historic Building Code (Health and Safety code section 18950 et seq.) were amended in 1998. The SHBC is incorporated as Part 8 within the California Building Standards Code (Title 24). The California Building Standards Code is a copyright document and cannot be reproduced here.

Copies of the SHBC can be obtained by purchasing the entire California Building Standards Code or obtained as a stand alone document. The SHBC can be ordered by calling the International Conference of Building Officials (ICBO) at 1-800-284-4406. The item # is 158F98.

Additional descriptive information regarding the California Building Standards Code and the State Historic Building Code can be accessed on the Internet at <http://www.dsa.ca.gov/>.

# A Glossary of Terms as used in the California Register of Historical Resources (Title 14, Chapter 11.5, Appendix A)

## -A-

**Archeological District.** An area defined by a significant concentration, linkage, or continuity of sites.

**Archeological Site.** A bounded area of a resource containing archeological deposits or features that is defined in part by the character and location of such deposits or features.

**The Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa).** Provides for protection of terrestrial and submerged archeological resources. Authorizes criminal prosecution for the excavation, removal, or damage of archeological resources on public or Indian lands without appropriate permit. Governs the transportation of illegally obtained materials, access to information, and the permitting process.

## -B-

**Boundaries.** Lines delineating the geographical extent or area of an historical resource.

**Building.** A resource, such as a house, barn, church, factory, hotel, or similar structure, created principally to shelter or assist in carrying out any form of human activity. Also, used to refer to an historically and functionally related unit, such as a courthouse and jail or a house and barn.

## -C-

**California Historical Resources Information System (CHRIS).** That collection of Site Records, Historic Resource Inventory Forms, and all information on historical resources which has been acquired and managed by the State Office of Historic Preservation since 1975. This shall include the State Historic Resources Inventory, the California Archaeological Site Inventory, properties listed in the National Register of Historic Places, California Registered Historical Landmarks, California Points of Historical Interest, and the California Register of Historical Resources.

**Conservation Easement.** A less than fee simple interest in real property recorded as a deed restriction which is designed to protect the historic, cultural, archeological, or ecological characteristics of a property. For purposes of the regulations in this chapter, it is interchangeable with the term "Preservation Easement."

**Cultural Heritage.** Pertaining to the sum total of traditions, body of knowledge, etc., inherited as possessions, characteristics, or conditions expressing a traditional way of life subject to gradual, but continuous modifications by succeeding generations.

**Cultural Resource.** See Historical Resource.

**Culture.** A linkage of people possessing shared values, beliefs, and historical associations coupling social institutions and physical materials necessary for collective survival.

## -D-

**Disclosure, archeological site.** To make available any records that pertain to an archeological site. However, "archeological site disclosure" need not take place if the nomination of a resource to the California Register requires making known any records which relate to archeological site information when those records are maintained by either the Department of Parks and Recreation or the State Historical Resources Commission.

**District.** A geographic area which possesses a significant concentration, linkage, or continuity of sites, buildings, areas, structures, or objects which are united historically, culturally, or aesthetically by plan, history, or physical development. For purposes of the regulations in this chapter, this term is interchangeable with "Historic District."

**DPR Form 422.** Department of Parks and Recreation Archeological Resources Inventory Form Number 422.



**DPR Form 523.** Department of Parks and Recreation Historic Resources Inventory Form Number 523.

**-E-**

**Evaluation.** A process carried out by the State Historical Resource Commission whereby the significance and integrity of an historical resource is judged, thereby determining its eligibility for listing.

**-F-**

**Footprint.** The form or pattern made by the perimeter of a building or other resource. Often used in connection with sketch maps or boundaries. A sketch map may show the footprint of historic resources as they are found on a parcel of land.

**Formally Determined Eligible for Listing.** An historical resource shall be considered “formally determined eligible for listing” when the State Historical Resources Commission accepts the nomination of the historical resource and designates the property as eligible for listing in the California Register.

**-G-**

**Geographical Area.** An area of land containing historical or archeological resources that can be identified on a map and delineated by boundaries.

**-H-**

**Historic Context.** An organizing structure for interpreting history that groups information about historical resources sharing a common theme, geographical area, or chronology. The development of “historic context” is a foundation for decisions regarding the planning, identification, evaluation, registration, and treatment of historical resources based upon comparative historic significance.

**Historic District.** A geographic area which contains a concentration of historic buildings, structures, or sites united historically, culturally, or architecturally. “Historic districts” are defined by precise geographic boundaries. Therefore, “historic districts” with unusual boundaries require a description of what lies immediately outside the area in order to define the edge of the district and to explain the exclusion of adjoining areas.

**Historic Fabric.** (1) With regard to an historic building, “historic fabric” means the particular materials, ornamentation, and architectural features which are consistent with the historic character of the building. (2) With regard to an historic district, “historic fabric” means all sites, buildings, structures, features, objects, landscaping, street elements, and related design components of the district which are consistent with the historic character of the district. (3) With regard to an archeological district, “historic fabric” means sites, standing structures or buildings, historic landscape (land disturbance such as grading or construction), features (remnants of walls), and objects (artifacts) which are consistent with the historic character of the district.

**Historic Integrity.** The ability of a resource to convey its historical significance.

**Historic Resources Inventory Form (DPR Form 523).** A document which describes the characteristics and locations of buildings, structures, objects, and districts recorded for inclusion in an Historic Resources Inventory.

**Historical Landmarks.** See State Historical Landmark.

**Historical Resource.** Any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or which is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural history of California.

**Historical Resources Inventory.** A set of data, such as a list of historical resources, generated through an Historical Resources Survey.

**Historical Resources Survey.** The process of systematically identifying, researching, photographing, and documenting historical resources within a defined geographic area.

-I-

**Identification.** The process by which information is gathered regarding historical resources.  
**Information Center.** See Regional Information Center.

-L-

**Landscape, Cultural.** A geographic area that (1) has been used, shaped, or modified by human activity, occupation, intervention; or (2) possesses significant value in the belief system of a culture or society.

**Landscape, Designed.** A geographic area that (1) has significance as a design or work of art; (2) was consciously designed and laid out by (a) a designer according to academic or professional design standards, theories, or philosophies of landscape architecture; or (b) by an amateur using a recognized style or tradition; (3) has an historical association with a significant person, trend, or event in landscape gardening or landscape architecture; or (4) has a significant relationship to the theory or practice of landscape architecture.

**Landscape, Rural.** A geographic area that (1) has historically been shaped or modified by human activity, occupancy, or intervention; (2) possesses a significant concentration, linkage, or continuity of areas of land use, vegetation, buildings or structures, roads or waterways, or natural features; or (3) provides a sense of place.

**Listed.** A California Register historical resource shall be considered "listed" when (1) the State Historical Resources Commission, after reviewing the nomination of the historical resource, accepts it for listing in the California Register; or (2) it has been automatically "listed" under Public Resources Code Section 5024.1 (d)(1) & (2).

**Local government.** A public agency with land-use control authority over a designated historical resource. Local governments may include special district, tribal, city, or county governments.

-M-

**Manuscript.** (1) Bodies or groups of personal papers. (2) Collections of documents acquired from various sources according to a plan. (3) Individual documents acquired by a manuscripts repository because of their special importance. (Society of American Archivists)

-N-

**National Environmental Policy Act of 1969 (NEPA). (42 U.S.C. 4321-4347 (1969) (amended)).** Created a process by which to analyze significant environmental impacts, including impacts to historical resources, for federally funded or licensed actions.

**National Historic Preservation Act of 1966 (NHPA). (16 U.S.C. 470 (1966) (amended)).** Established the National Register of Historic Places. Created a partnership between federal, state, and local agencies to extend the national historic preservation programs to properties of state and local significance.

**National Register Criteria.** The federally established standards for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

**National Register of Historic Places, The. (16 U.S.C. 470a, 36 C.F.R. Parts 60, 63).** The official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 (16 U.S.C. 461-467 (1935) (amended)) and the National Historic Preservation Act of 1966 (16 U.S.C. 470 (1966) (amended)).

**Nomination.** A formal application, submitted to the State Historical Resources Commission, for listing an historical resource on the California Register of Historical Resources.

-O-

**Object.** Manifestations that are primarily artistic in nature, or are relatively small in scale and simply constructed. The "object" may be a fixture (real property) or movable (personal property). Although it may be movable by nature or design, an object must be associated with a

specific setting or environment. The “object” should be in a setting appropriate to its significant historical use, role, or character; for example, a fountain or boundary marker.

**Officer.** The State Historic Preservation Officer (SHPO) is appointed by the Governor under the authority of Public Resources Code Section 5020.6. The SHPO serves as the Chief Administrative Officer of the Office of Historic Preservation and Executive Secretary of the State Historical Resources Commission. The SHPO administers state and federally mandated historic preservation programs under the authority of the National Historic Preservation Act of 1966, Section 101 (b)(3), (16 U.S.C. 470 (1966) (amended)) and Cal. Pub. Res. Code Section 5024.

**Owner.** Those individuals, partnerships, corporations, or public agencies holding fee simple title to a resource. The term does not include individuals, partnerships, corporations, or public agencies holding easements or less than fee simple interests, including leaseholds.

**-P-**

**Penal Code, Section 622.5.** Provides misdemeanor penalties for every person, other than the owner, who injures or destroys objects of historical or archeological interest located on public or private lands.

**Point of Historical Interest.** The California Point of Historical Interest Program (Cal. Pub. Res. Code Section 5021) is a state historical resources registration program, established in 1965, which provides official recognition for historical resources that are significant at a county or regional level, but do not qualify for designation as California Registered Historical Landmarks.

**Preservation (treatment).** The act or process of applying measures to sustain the existing form, integrity, or historic fabric of an historical building or structure, or the form or vegetative cover of an historic site. It may include stabilization work, as well as ongoing maintenance of the historic fabric.

**Preservation Commission.** A city or county board of appointed citizens with assigned responsibilities for surveying, designating, and protecting historical resources. May also be called an historic review board, design review board, landmarks commission, or cultural heritage commission.

**Primary Number.** The number used to identify and retrieve records regarding a specific site in the California Historical Resources Information System. The Primary Number describes the location of a resource in the same manner as a Site Trinomial Number.

**Protection (treatment).** The act or process of applying measures to affect the physical condition of an historical resource by guarding it from deterioration, loss, or attack by natural causes, or to cover or shield it from threat of danger or harm. In the case of buildings or structures, these measures are usually temporary; however, with regard to archeological resources, protective measures may be temporary or permanent.

**Public Resources Code, Section 5097.5.** Defines as a misdemeanor the unauthorized disturbance or removal of archeological, historical, or paleontological resources located on public lands.

**-R-**

**Reconstruction (treatment).** The act or process of reproducing through construction the exact form and detail of a vanished building, structure, or object, or any part thereof, as it appeared at a specified period of time.

**Recordation.** Section 27288.2 of the Government Code and Section 5029 of the Public Resources Code require the County Recorder to record a certified resolution of historical resources designation containing the name of the current property owner, the historical resources registration program, the designating entity, the specific historical resources designation, and a legal description of the property.

**Regional Information Center.** An Information Center of the California Historical Resources Information System, under contract to the Office of Historic Preservation, which receives, manages, and provides information on historical and archeological resources. “An Information Center” may also provide training or technical assistance on a fee-for-service basis.

**Registration.** A program by which an historic resource is documented, evaluated, and determined eligible or nominated for listing as a type of historical resource. Such programs may be local, state, or national.

**Rehabilitation (treatment).** The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

**Research Design.** Reveals the logic that will be used to direct identification, documentation, investigation, analysis, or treatment of an historical resource that identifies the goals, methods and techniques, potential results, and the relationship of the potential results to other proposed activities or treatments.

**Resource, Contributing.** A resource which by location, design, setting materials, workmanship, feeling, and association adds to the sense of historical authenticity, historical development, or value of an historical resource.

**Resource, Non Contributing.** An historical resource which does not add to the sense of historical authenticity or evolution of an historic property or where the location, design, setting, materials, workmanship, history, and/or association of the historical resource have been so altered or deteriorated that the overall integrity of that resource has been irretrievably lost.

**Restoration (treatment).** The act or process of reproducing the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

-S-

**Secretary of Interior Standards.** Identified in the **Secretary of the Interior Standards and Guidelines for Historic Preservation Projects** (36 C.F.R.67), with accompanying interpretive guidelines, which are utilized by federal agencies in the preservation of historical properties that are listed, or are eligible for listing, on the National Register. They are also used by some State Historic Preservation Offices in evaluating projects proposed as historical resources in accordance with federal regulations; or by local governments, organizations, and individuals in making decisions about the identification, evaluation, registration, or treatment of historic properties. The **Secretary of the Interior's Standards for Rehabilitation** is aimed at retaining and preserving those features and materials which are important in defining the historic character of an historical resource. Technical advice about archeological and historic preservation activities and methods is also included in the **Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation**.

**Site.** A location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing building, structure, or object. A "site" need not be marked by physical remains if it is the location of a prehistoric or historic event and if no buildings, structures, or objects marked it at that time. Examples include trails, designed landscapes, battlefields, habitation sites, Native American ceremonial areas, petroglyphs, and pictographs.

**Site Record.** A document which describes the characteristics and location of a site, and which has been completed for entry in the California Archaeological Site Inventory.

**Site Trinomial Number.** A site registration number assigned by the Office of Historic Preservation to a specific archeological resource under which all documentation for that resource will be recorded.

**Stabilization (treatment).** The act or process of applying measures designed to establish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property, or one which has the potential to deteriorate or to become unsafe, while maintaining the essential form as it exists at present.

**State Historic Preservation Officer (SHPO).** See Officer.

**State Historic Resources Inventory.** Compilation of all identified and evaluated historical resources maintained by the State Office of Historic Preservation. It includes all those historical resources evaluated in surveys that were conducted in accordance with criteria established by

the Office (see Appendix B) and were thereafter determined eligible for, or listed in, the National Register of Historic Places or designated as California Registered Historical Landmarks, California Points of Historical Interest, or the California Register of Historical Resources.

**State Historical Building Code (SHBC).** The State Historical Building Code is contained in Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historical structures, districts, and sites designated under federal, state, or local authority. It provides alternatives to the Uniform Building Code in cases consistent with building regulations for the rehabilitation, preservation, restoration, or relocation of qualified historic structures designated as historic buildings.

**State Historical Landmarks.** The California Registered Historical Landmarks Program (Cal. Pub. Res. Code Section 5021) is a state historical resources registration program which was created in 1949 to recognize historical resources with regional and statewide significance to the history of California.

**State Historical Resources Commission (SHRC).** Commission appointed by the Governor under Public Resources Code Section 5020.4 and 5020.5. The SHRC has broad responsibilities for the statewide historic preservation program that include conducting a statewide inventory of historical resources, establishing criteria for evaluating historical resources, and conducting public hearings to develop and review a statewide historical resources plan.

**Statement of Significance.** An organizational format which groups information about related historical resources based on theme, geographic units, and chronological period. The information should describe why the resource is significant within a relevant historic context.

**Structure.** A construction made for a functional purpose rather than creating human shelter. Examples of structures include mines, bridges, and tunnels.

-T-

**Tax Certification.** A provision of federal tax law which, under certain conditions, allows money invested in capital rehabilitation to be deducted from income taxes owed. See those provisions for certified National Register structures which are included in the Economic Recovery Act of 1981 (Internal Revenue Code Sections 48, 168, 170, and 280B).

**Traditional Cultural Properties.** A geographic area or historical resource that embodies important cultural values. It may contain landscape characteristics that are the tangible evidence of the activities and habits of the people who occupied, developed, and shaped the land to serve their needs, or it may include several categories of properties. It may also contain, or consist primarily of, natural features which are important in a religious or belief system.

-U-

**UTM Coordinates.** A set of metric coordinates (easting and northing) that indicate a unique location according to the **Universal Transverse Mercator** grid appearing on maps of the United States Geological Survey.

# **ADMINISTRATIVE POLICIES**

# Executive Orders

## Executive Order W-26-92

Whereas, the preservation and wise use of California's cultural and historic resources are of importance to the people of this state; and

Whereas, these cultural and historic resources, hereinafter referred to as "heritage resources," include artifacts, sites, building, structures, districts, and objects with historical, architectural, archaeological, and cultural significance; and

Whereas, these heritage resources provide not only continuity with our past, but foster community pride, stimulate economic activity, improve housing, enhance the quality of life and, along with California's unique natural resources, draw hundreds of thousands of visitors to California every year; and

Whereas, due to their location, age, and the construction materials used, many of our important historic buildings and historic sites may be at risk from deterioration, destruction, and natural disasters; and

Whereas, an assessment of the extent of our heritage resources is needed in order to ensure their recognition and adequate protection in the future; and

Whereas, the preservation and wise use of historic resources must include consideration of cost-effectiveness and fostering private sector incentives, and state agencies must consider these and other public interests in their decision-making processes;

Now, therefore, I, Pete Wilson, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue this order to become effective immediately, and do hereby direct all agencies of the Executive Branch of state government as follows:

Section 1. In furtherance of the purposes and policies of the State's environmental protection laws, including but not limited to the California Environmental Quality Act, Public Resources Code Section 21000 et seq., the State Historic Building Code, Health and Safety Code Section 18950 et seq., and the historic resources preservation laws, Public Resources Code Section 5020 et seq., all state agencies shall recognize and, to the extent prudent and feasible within existing budget and personnel resources, preserve and maintain the significant heritage resources of the State. In accordance with these statutes, each state agency is directed:

- 1) to administer the cultural and historic properties under its control in a spirit of stewardship and trusteeship for future generations; and
- 2) to initiate measures necessary to direct its policies, plans, and programs in such a way that state-owned sites, structures, and objects of historical, architectural, or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people; and
- 3) to ensure that the protection of significant heritage resources are given full consideration in all of its land use and capital outlay decisions; and
- 4) in consultation with the California State Office of Historic Preservation, to institute procedures to ensure that state plans and programs contribute to the preservation and enhancement of significant non-state owned heritage resources.

Section 2. Each state agency shall designate from among its current staff a key official (Agency Preservation Officer) whose responsibility will be to ensure that the State's policies regarding

the protection of cultural and historic resources within the jurisdiction of such state agency are carried out.

Section 3. Under the direction of its Agency Preservation Officer, in consultation with the State Historic Preservation Officer, and in consultation as appropriate with the State Historical Building Safety Board, each agency shall, by January 1994, develop and institute feasible and prudent policies and a management plan to preserve and maintain its significant heritage resources.

(a) Inventories pursuant to Section 5024 are to be completed or updated by January 1995, or as soon thereafter as feasible as specified in a Memorandum of Understanding with the State Historic Preservation Officer. Inventory preparation shall take into account the kind, quantity, location of, and development risk to properties within the ownership and control of the agency.

(b) Heritage resources management plans and policies shall be reviewed periodically and revised as appropriate in consultation with the State Office of Historic Preservation.

(c) For purposes of developing management plans and policies under this order, resources which meet the following criteria shall be considered significant heritage resources:

(1) listed in or potentially eligible for inclusion in the National Register of Historic Places; or

(2) registered or eligible for registration as a state historical landmark or point of historical interest; or

(3) registered or eligible for listing in a California Register of Historical Resources in accordance with procedures and criteria developed by the State Historical Resources Commission.

Section 4. The State Historic Preservation Officer and the State Office of Historic Preservation shall provide leadership to and shall coordinate the efforts of State agencies in implementing their stewardship obligations with regard to historic resources, including, but not limited to, the requirements of Public Resources Code Sections 5020, et seq.

Section 5. Each state agency shall report to the State Office of Historic Preservation annually its progress in completing inventories, management plans, and policies pursuant to this order.

Section 6. The Resources Agency and the Office of Planning and Research shall provide guidance concerning the application of the California Environmental Quality Act (CEQA) and the state's CEQA regulations in order to provide for the consistent protection and preservation of the heritage resources of California.

The provisions of Section 21080(b)(3) and (4) of the Public Resources Code shall not be construed or applied to exempt from review projects to alter significant historic resources except to the extent that the condition of the historic structures or resources poses an emergency as defined by Section 21060.3 of the Public Resources Code. The historic value of structures is to be preserved and enhanced, unless the state or local agency finds the structure presents an imminent threat of harm to the public or of damage to adjacent property.

In witness whereof I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 8<sup>th</sup> day of April 1992.

Pete Wilson, Governor of California  
Attest: March Fong Eu, Secretary of State



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