

Please note: This text is from the fourth edition of *Federal Historic Preservation Laws*, published in 2006 by the National Center for Cultural Resources, National Park Service, Department of the Interior. This edition contains 24 Federal laws and portions of laws that pertain to the preservation of the Nation's cultural heritage.

The citations in this book are no longer up-to-date. We have retained this edition online for its historic value, and for the plain-language context that it provides about these laws.

Please consult our webpage about Federal Historic Preservation Laws, Regulations, and Orders at <http://www.nps.gov/history/laws.htm> for up-to-date citations and links to the current text of Federal historic preservation laws.

Historic Sites Act

AS AMENDED

This Act became law on August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467) and has been amended eight times. This description of the Act, as amended, tracks the language of the United States Code except that (in following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. This title is not an official short title, but is merely a convenience for the reader.

16 U.S.C. 461,
Declaration of national
policy

Section 1

It is hereby declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States.

16 U.S.C. 462,
Administration by
the Secretary of the
Interior, powers and
duties enumerated

Section 2

The Secretary of the Interior (hereinafter in sections 1 to 7 of this Act referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 of this Act, shall have the following powers and perform the following duties and functions:

16 U.S.C. 462(a),
Basis for Historic
American Buildings
Survey/Historic
American Engineering
Record/Historic
American Landscapes
Survey

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects.

16 U.S.C. 462(b),
Basis for National
Historic Landmarks
Program

(b) Make a survey of historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

16 U.S.C. 462(c),
Collection of true and
accurate information

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological [sic] facts and information concerning the same.

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16 U.S.C. 462(d),
Federal acquisition
of personal or real
property

(d) For the purpose of sections 1 to 7 of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided*, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further*, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

16 U.S.C. 462(e),
Cooperative
agreements

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeological building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

16 U.S.C. 462(f),
Protection of historic
properties, related
museums

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

16 U.S.C. 462(g),
Commemorative
plaques

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological [sic] significance.

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16 U.S.C. 462(h),
Operation and management of historic properties

(h) Operate and manage historic and archaeological sites, buildings, and properties acquired under the provisions of sections 1 to 7 of this Act together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

16 U.S.C. 462(i),
Organization of special corporations to carry out purposes of the Act

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeological site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

16 U.S.C. 462(j),
Educational programs

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeological sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

16 U.S.C. 462(k),
Regulations and fines

(k) Perform any and all acts, and make such rules and regulations not inconsistent with sections 1 to 7 of this Act as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by said sections shall be punished by a fine of not more than \$500 and be adjudged to pay all cost of the proceedings.

16 U.S.C. 463,
National Park System Advisory Board

16 U.S.C. 463(a),
Establishment, composition, duties

Section 3

(a) There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed

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on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine sciences, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national [sic; probably meant “natural”] or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of Title 5 [5 U.S.C. 5701-5709, travel and subsistence expenses]. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.

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It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 1 to 7 of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

16 U.S.C. 463(b),
Staff, applicability of
Federal law

(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of Section 8344 of Title 5 [5 U.S.C. 8344, civil service retirement, annuities and pay on reemployment], or comparable provisions of Federal law.

16 U.S.C. 463(c),
Authority of Board

(c)(1) Upon request of the Director, the Board is authorized to—

- (A) hold such hearings and sit and act at such times,
- (B) take such testimony,
- (C) have such printing and binding done,
- (D) enter into such contracts and other arrangements,
- (E) make such expenditures, and

(F) take such other actions, as the Board may deem advisable.

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Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(2) The Board may establish committee or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

16 U.S.C. 463(d),
Federal Advisory
Committee Act

(d) The provisions of the Federal Advisory Committee Act [Public Law 92-463, as amended, 5 U.S.C. Appendix] shall apply to the Board established under this section with the exception of section 14(b).

16 U.S.C. 463(e),
Cooperation of Federal
agencies, use of funds

(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality [sic; word missing, probably “available”] to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.

16 U.S.C. 463(f),
Sunset

(f) The National Park System Advisory Board shall continue to exist until January 1, 2006. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) [Public Law 92-463, as amended, 5 U.S.C. Appendix] are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

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16 U.S.C. 463(g),
National Park Service
Advisory Council

(g) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the “advisory council”) which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

16 U.S.C. 464,
Cooperation with govern-
mental and private
agencies

Section 4

(a) The Secretary, in administering sections 1 to 7 of this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

16 U.S.C. 464(a),
Authorization

16 U.S.C. 464(b),
Technical advisory
committees

(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

16 U.S.C. 464(c),
Technical assistance

(c) Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 1 to 7 of this Act and for which money may be appropriated by Congress or made available by gifts for such purpose.

16 U.S.C. 465,
Jurisdiction of States
and political subdivi-
sions in acquired lands

Section 5

Nothing in sections 1 to 7 of this Act shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under said sections.

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16 U.S.C. 466,
Requirement for
specific authorization

16 U.S.C. 466(a),
In general

16 U.S.C. 466(b),
Savings provision

16 U.S.C. 466(c),
Authorization of
appropriations

16 U.S.C. 467,
Conflict of laws

Section 6

(a) Except as provided in subsection (b) of this section, notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 2(e) or 2(f) of this Act may be obligated or expended after October 30, 1992—

(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after October 30, 1992; or

(2) in excess of the amount prescribed by law enacted on or after such date.

(b) Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

(c) Except as provided by subsection (a) of this section, there is authorized to be appropriated for carrying out the purposes of sections 1 to 7 of this Act such sums as the Congress may from time to time determine.

Section 7

The provisions of sections 1 to 7 of this Act shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.