

Chapter 41.35 Historic Preservation

Article 01. ALASKA HISTORIC PRESERVATION ACT

Sec. 41.35.010. Declaration of policy.

It is the policy of the state to preserve and protect the historic, prehistoric, and archeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric, and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited, and evaluated.

Sec. 41.35.020. Title to historic, prehistoric, and archeological resources; local display.

(a) The state reserves to itself title to all historic, prehistoric, and archeological resources situated on land owned or controlled by the state, including tideland and submerged land, and reserves to itself the exclusive right of field archeology on state-owned or controlled land. However, nothing in [AS 41.35.010](#) - 41.35.240 diminishes the cultural rights and responsibilities of persons of aboriginal descent or infringes upon their right of possession and use of those resources that may be considered of historic, prehistoric, or archeological value.

(b) Although title to historic, prehistoric, and archeological resources is in the state, local cultural groups may obtain from the state, or retain, for study or display, artifacts and other items of these resources from their respective cultures or areas if the commission created in [AS 41.35.300](#) finds that

(1) the group has a durable building with weatherproof and fireproof construction and humidity control and other factors necessary to serve as a museum which will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting it. A group retaining such an item or obtaining one from the state shall house it in the museum building and shall make every reasonable effort to assure its safe preservation. If the commission finds that a local cultural group is not properly taking care of an item the group shall return it to the department.

Sec. 41.35.030. Designation of monuments and historic sites.

Upon the recommendation of the commission, the governor may declare by public order any particular historic, prehistoric, or archeological structure, deposit, site, or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or historic site, and the governor may designate as a part of the monument or site as much land as is considered necessary for the proper access, care, and management of the object or site to be protected. When an object or site is situated on land held in private ownership, it

may be declared a state monument or historic site in the same manner, with the written consent of the owner.

Sec. 41.35.040. Administration and financial support of monuments and historic sites.

State-owned monuments, sites, and other historic, prehistoric, or archeological properties owned or purchased by the state are under the control of the department, and their maintenance shall be covered in the appropriations made to the department. Privately owned state monuments or historic sites are eligible to receive state support for their maintenance, restoration, and rehabilitation if they are kept accessible to the general public and application for support is made in conformity with regulations adopted by the commissioner.

Sec. 41.35.045. Fees for guided tours through historical sites. [Repealed, Sec. 3 ch 89 SLA 1987].

Repealed or Renumbered

Sec. 41.35.050. Regulations.

The commissioner shall adopt regulations to carry out the purposes of [AS 41.35.010](#) - 41.35.240.

Sec. 41.35.060. Power to acquire historic, prehistoric, or archeological properties.

(a) The department, with the recommendation of the commission, may acquire real and personal properties that have statewide historic, prehistoric, or archeological significance by gift, purchase, devise, or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric, or archeological significance when it is determined to be necessary for the proper use and administration of the significant property.

(b) If an historic, prehistoric, or archeological property which has been found by the department, upon the recommendation of the commission, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric, or archeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric, or archeological character or value. If the owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.240 - 09.55.460.

Sec. 41.35.070. Preservation of historic, prehistoric, and archeological resources threatened by public construction.

(a) The department shall locate, identify, and preserve in suitable records information regarding historic, prehistoric, and archeological sites, locations, and remains. The information shall be submitted to the heads of the executive departments of the state.

(b) Before public construction or public improvement of any nature is undertaken by the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric, or archeological values.

(c) If the department determines that historic, prehistoric, or archeological sites, locations, or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording, and salvage of the site, location, or remains. All investigation, recording, and salvage work shall be performed as expeditiously as possible so that no state construction project will be unduly impaired, impeded, or delayed.

(d) If in the course of performing public construction or improvements, historic, prehistoric, or archeological sites, locations, remains, or objects are discovered, the department shall be notified and its concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the department shall survey the area to determine whether the area contains historic, prehistoric, or archeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (1) this data exists in the area, (2) the data has exceptional historic, prehistoric, or archeological significance, and should be collected and preserved in the public interest, and (3) it is feasible to collect and preserve the data, the department shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible.

(e) If the concurrence of the department required under (b) and (c) of this section is not obtained after 90 days from the filing of a request for its concurrence to proceed with the project, the agency or person performing the construction or improvement may apply to the governor for permission to proceed without that concurrence, and the governor may take the action the governor considers best in overruling or sustaining the department.

(f) The costs of investigation, recording, and salvage of the site shall be reimbursed by the agency sponsoring the construction project.

(g) Notwithstanding (a) - (f) of this section, all actions to stop any project shall first be approved in writing by the commissioner.

Sec. 41.35.080. Permits.

The commissioner may issue a permit for the investigation, excavation, gathering, or removal from the natural state, of any historic, prehistoric, or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings, or removals and only if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the historic, prehistoric, or archeological resource involved is one which is, or is located on a site which is, sacred, holy, or of religious

significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section.

Sec. 41.35.090. Notice required of private persons.

Before any construction, alteration, or improvement of any nature is undertaken on a privately owned, officially designated state monument or historic site by any person, the person shall give the department three months notice of intention to construct on, alter, or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under [AS 41.35.060](#) (b) or undertake or permit the recording and salvaging of any historic, prehistoric, or archeological information considered necessary.

Sec. 41.35.100. Excavation and removal of historic, prehistoric, or archeological remains on private land.

Before any historic, prehistoric, or archeological remains are excavated or removed from private land by the department, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court.

Sec. 41.35.110. - 41.35.190. Historic sites advisory committee. [Repealed, E.O. No. 83, Sec. 20 (1993)].

Repealed or Renumbered

Sec. 41.35.200. Unlawful acts.

(a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric, or archeological resources of the state.

(b) A person may not possess, sell, buy, or transport within the state, or offer to sell, buy, or transport within the state, historic, prehistoric, or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) *[Repealed, Sec. 3 ch 83 SLA 2001].*

(d) An historic, prehistoric, or archeological resource that is taken in violation of this section shall be seized by any person designated in [AS 41.35.220](#) wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository.

Sec. 41.35.210. Criminal penalties.

A person who is convicted of violating a provision of AS 41.35.010 - 41.35.240 is guilty of a class A misdemeanor.

Sec. 41.35.215. Civil penalties.

In addition to other penalties and remedies provided by law, a person who violates a provision of [AS 41.35.010](#) - 41.35.240 is subject to a maximum civil penalty of \$100,000 for each violation.

Sec. 41.35.220. Enforcement authority.

The following persons are peace officers of the state and shall enforce [AS 41.35.010](#) - 41.35.240:

- (1) an employee of the department authorized by the commissioner;
- (2) a peace officer in the state;
- (3) any other person authorized by the commissioner.

Sec. 41.35.230. Definitions.

In [AS 41.35.010](#) - 41.35.240, unless the context otherwise requires,

- (1) "commission" means the Alaska Historical Commission established in [AS 41.35.300](#) ;
- (2) "historic, prehistoric, and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state.

Sec. 41.35.240. Short title.

[AS 41.35.010](#) - 41.35.240 may be cited as the Alaska Historic Preservation Act.

Article 02. ALASKA HISTORICAL COMMISSION

Sec. 41.35.300. Creation.

There is created in the department the Alaska Historical Commission.



Sec. 41.35.310. Composition of commission.

The Alaska Historical Commission consists of the following persons:

- (1) the lieutenant governor;

(2) the state liaison officer appointed under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(3) three persons with professionally relevant backgrounds appointed from each of the following fields: history, architecture, and archeology;

(4) one person appointed to represent indigenous ethnic groups;

(5) two persons appointed from a list of recommended nominees, containing at least four names, submitted each year by the Alaska Historical Society;

(6) one other person.

Sec. 41.35.320. Appointment of members.

Members of the commission are appointed by the governor and confirmed by the legislature meeting in joint session. The members of the commission serve at the pleasure of the governor.

Sec. 41.35.330. Term of office.

The term of office for a member of the commission is three years, except for those who are members by virtue of their positions with the state, who serve for as long as they remain in the position by virtue of which they are members of the commission. Except as provided in AS 39.05.080(4), a member appointed to fill a vacancy serves for the unexpired term of the member succeeded.

Sec. 41.35.340. Compensation.

The members of the commission serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 41.35.345. Officers.

At the first meeting of each year, the commission shall elect a chair from among its members.

Sec. 41.35.347. Meetings and quorum.

The commission shall meet at least twice a year. Additional meetings may be called by the chair or by petition of at least five members. Five members of the commission constitutes a quorum.

Sec. 41.35.350. Duties of the commission.

(a) The duties of the commission are to

(1) survey, evaluate, and catalog Alaska prehistory and history materials now in print;

- (2) ascertain and register what Alaska prehistory and history work is now in progress;
- (3) identify the existing gaps in the coverage of Alaska's past in presently available published works and establish priorities for bridging them;
- (4) prepare a thematic study of Alaska's history for historic preservation;
- (5) identify the sources of Alaska's history;
- (6) coordinate the production and publication of works that will adequately present all aspects of Alaska's past;
- (7) cooperate with the federal government in programs relating to history and archaeology;
- (8) develop criteria for the evaluation of state monuments and historic sites and all real and personal property that may be considered to be of historic, prehistoric, or archeological significance as would justify their acquisition and ownership by the state;
- (9) cooperate with the department in formulating and administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);
- (10) review those surveys and historic preservation plans that may be required, and approve properties for nomination to the National Register as provided for in 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);
- (11) provide necessary assistance to the governor and the legislature for achieving balanced and coordinated state policies and programs for the preservation of the state's historic, prehistoric, and archeological resources;
- (12) consult with local historical district commissions regarding the establishment of historical districts under [AS 29.55.010](#) - 29.55.020 and the approval of project alterations under [AS 45.98.040](#); recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under [AS 29.55.020](#)(b); approve plans for and evaluate the suitability of specific structures for purposes of loan eligibility and continuance under the historical district revolving loan fund (AS 45.98); and consult with the Department of Commerce, Community, and Economic Development relative to the adoption of regulations for historical district loans under AS 45.98;
- (13) determine the correct and most appropriate names of the lakes, streams, places, and other geographic features in the state and their spelling;
- (14) pass upon and give names to lakes, streams, places, and other geographic features in the state for which no single generally acceptable name has been in use;

(15) cooperate with local subdivisions of government and, with their approval, change the names of lakes, streams, places, and other geographic features to eliminate duplication of names in the state;

(16) prepare and publish an official state dictionary of geographic names and publish it for sale, either as a complete whole or in parts when ready; and

(17) serve as the state representatives of the United States Board on Geographic Names and cooperate with that board so that there is no conflict between the state and federal designations of geographic features in the state.

(b) In carrying out its duties to name geographic features under this section, the commission shall consider using Alaska Native place names for geographic features in the state that have not previously been named, using Native language writing systems accepted by the Alaska Native Language Center of the University of Alaska at Fairbanks.

(c) When the commission gives a name to a lake, stream, place, or other geographic feature in the state, the name is the official name of the geographic feature and shall be used in all maps, records, documents, and other publications issued by the state or its departments and political subdivisions.

(d) A person may not attempt to modify local usage or name an unnamed geographic feature in an advertisement or publication without first obtaining the approval of the commission. If a person violates this section, the commission shall promptly announce its disapproval and shall adopt an official name for the feature.

Sec. 41.35.360. Reports. [Repealed, Sec. 35 ch 126 SLA 1994].

Repealed or Renumbered

Sec. 41.35.370. Executive director. [Repealed, E.O. No. 83 Sec. 20 (1993)].

Repealed or Renumbered

Sec. 41.35.375. Powers of chairman.

Subject to available appropriations, the chair may, with the concurrence of a majority of the commission, employ necessary personnel and may contract for the services of experts and other persons who may be needed.

Sec. 41.35.380. Gifts and income.

(a) There is established in the state general fund a special Alaska Historical Commission receipts account into which shall be paid:

(1) all monetary gifts, grants, and bequests received by the commission;

(2) all royalties and other income that the commission receives from its projects.

(b) The legislature may appropriate funds from this account for commission projects.

Chapter 41.37. CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS IN ALASKA

Sec. 41.37.010. - 41.37.150. Citizens' Advisory Commission on Federal Areas in Alaska. [Repealed, Sec. 3 ch. 81 SLA 1981, as amended by Sec. 1 ch. 25 SLA 1988 and Sec. 1 ch. 71 SLA 1998].

Repealed or Renumbered

Sec. 41.37.160. Citizens' Advisory Commission on Federal Management Areas in Alaska.

The Citizens' Advisory Commission on Federal Management Areas in Alaska is established in the department. In the exercise of its responsibilities, the commission shall consider the views of citizens of the state and officials of the state.

Sec. 41.37.170. Membership and officers.

(a) The commission is composed of 12 members appointed in accordance with this section.

(b) The membership of the commission shall represent each region of the state to give the commission a reasonable geographic balance among regions of the state.

(c) The governor shall appoint six members of the commission.

(d) The speaker of the house of representatives shall appoint one member of the commission from the membership of the state house of representatives and two members who are residents of the state who are not legislators.

(e) The president of the senate shall appoint one member of the commission from the membership of the state senate and two members who are residents of the state who are not legislators.

(f) Each member of the commission serves at the pleasure of the appointing authority.

(g) The commission shall select a presiding officer of the commission from its membership. The commission may elect other officers.

Sec. 41.37.180. Qualifications of members.

The members of the commission appointed by the governor under AS 41.37.170(c) and members appointed under [AS 41.37.170](#) (d) and (e) who are not members of the legislature shall be representative of the diversity of users and uses of federal land in the state.

Sec. 41.37.190. Term of members of the commission.

(a) A member of the commission appointed by the governor serves for a term of four years or until a successor is appointed and qualifies.

(b) A member of the commission appointed from the legislature serves for the person's term of office as a legislator or until a successor is appointed and qualifies.

(c) Except as provided in (b) of this section, a member of the commission appointed by the speaker of the house of representatives or president of the senate serves for four years or until a successor is appointed and qualifies.

Sec. 41.37.200. Compensation, expenses, and per diem.

(a) A member of the commission who is a legislator or a full-time employee of the state or of a municipality of the state shall suffer no loss of compensation from the state or a municipality of the state as a result of service to the commission.

(b) A member of the commission is entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 41.37.210. Staff of the commission.

The commission may employ staff and contract for services relating to matters within its authority. Staff employed under this section are responsible to the commission.

Sec. 41.37.220. Duties of the commission.

(a) The commission shall consider, research, and hold hearings on the consistency with federal law and congressional intent on management, operation, planning, development, and additions to federal management areas in the state.

(b) The commission shall consider, research, and hold hearings on the effect of federal regulations and federal management decisions on the people of the state.

(c) The commission may, after consideration of the public policy concerns under (a) and (b) of this section, make a recommendation on the concerns identified under (a) and (b) of this section to an agency of the state or to the agency of the United States that manages federal land in the state.

(d) The commission shall consider the views, research, and reports of advisory groups established by it under [AS 41.37.230](#) as well as the views, research, and reports of individuals and other groups in the state.

(e) The commission shall establish internal procedures for the management of the responsibilities granted to it under this chapter.

(f) The commission shall report annually to the governor and the legislature within the first 10 days of a regular legislative session.

(g) The commission shall cooperate with each department or agency of the state or with a state board or commission in the fulfillment of its duties.

(h) All hearings of the commission are subject to [AS 44.62.310](#). Hearings of the commission held under this section shall be noticed as provided in [AS 44.62.190](#) and 44.62.200, and the hearings shall be conducted in accordance with the provisions of [AS 44.62.210](#).

