

Draft

ORDINANCE NO. (N.S.)

AN ORDINANCE ADDING SECTION 396.7
TO THE SAN DIEGO COUNTY ADMINISTRATIVE CODE
RELATING TO THE SAN DIEGO COUNTY
LOCAL REGISTER OF HISTORIC AND ARCHAEOLOGICAL RESOURCES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose and Intent. The Local Register is an authoritative listing and guide to be used by local agencies, private groups, and citizens in identifying the existing historic and archaeological resources of the County of San Diego. In addition, the listing shall also be used as a management tool for planning, and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change.

Section 2. Section 396.7 is hereby added to the San Diego County Administrative Code, to read as follows:

Section 396.7. SAN DIEGO COUNTY LOCAL REGISTER OF HISTORIC
AND ARCHAEOLOGICAL RESOURCES

I. Authority

On _____, 2001, the San Diego County Board of Supervisors approved Ordinance ____ . This ordinance, which becomes effective on _____, 2001, establishes a Local Register of Historic and Archaeological Resources for the County of San Diego, henceforth known as the Local Register.

II. Purpose

The Local Register is an authoritative listing and guide to be used by local agencies, private groups, and citizens in identifying the existing historic and archaeological resources of the County of San Diego. In addition, the listing shall also be used as a management tool for planning, and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change.

III. Historic and Archaeological Resources Eligible for Listing in the San Diego County Local Register of Historic and Archaeological Resources

The Local Register consists of historic and archaeological resources that are: (a) listed automatically; and (b) nominated by an application and listed after a public hearing process.

- (a) Historic and archaeological resources to be listed automatically in the Local Register include the following:
 - (1) Historic and archaeological resources listed on the National Register or California Register of Historic Resources. Normally, sites that are determined as eligible for listing on the National Register or California Register of Historic Resources or sites previously designated as Historic/Archaeological Landmarks or Districts through the application of the “H” or “J” special area designator are eligible for listing in the Local Register.
- (b) Historic and archaeological resources that require nomination to be listed in the Local Register may be nominated by individuals, organizations, or governmental agencies. Resources that are to be listed in the Local Register must have owner approval prior to consideration for listing. These resources include:
 - (1) Local historic and archaeological resources identified as significant during CEQA environmental review.
 - (2) An historic or archaeological resource; or historic or archaeological district.
 - (3) An historic or archaeological resource contributing to the significance of a nominated historic or archaeological district.
 - (4) A group of historic or archaeological resources identified in historic or archaeological resource surveys, if the survey meets the criteria and standards of documentation as identified in Section IV(e) below.
 - (5) An historic or archaeological resource, a group of historic or archaeological resources, or historic or archaeological districts designated or listed as county landmarks or historic or archaeological resources or districts pursuant to any county ordinance, if the criteria for designation or listing under the ordinance have been reviewed by the Historic Site Board as meeting the Local Register criteria.
 - (6) Historic/Archaeological Landmarks or Districts designated through the application of the “H” or “J” special area designator.

IV. Types of Historic or Archaeological Resources and Criteria for Listing in the San Diego County Register of Historic or Archaeological Resources.

The criteria for listing historic or archaeological resources in the Local Register are consistent with those developed by the Office of Historic Preservation (OHP) for listing resources to the California Register of Historical Resources (California Register), but have been modified for local use in order to include a range of historic or archaeological resources which specifically reflect the history and prehistory of San Diego County. Only resources that meet the criteria set out below may be listed or formally determined eligible for listing in the Local 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 possessed historical, cultural, or archaeological 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, flumes, roads, 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 structure. Although it may be moveable 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 Local Register. Examples of objects include but are not limited

to fountains, monuments, maritime resources, trains, planes, sculptures, and boundary markers.

- (5) Historic or Archaeological District. Historic or archaeological districts are united geographic entities that contain a concentration of historic buildings, structures, objects, and/or sites united historically, prehistorically, culturally, or architecturally. Historic or archaeological 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 below in section (b).

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

- (b) Criteria for evaluating the significance of historic or archaeological resources. An historic or archaeological resource must be significant at the local level under one or more of the following four criteria:
 - (1) Is associated with events that have made a significant contribution to the broad patterns of San Diego County's history and cultural heritage;
 - (2) Is associated with the lives of persons important to the history of San Diego County or its communities;
 - (3) Embodies the distinctive characteristics of a type, period, San Diego County region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - (4) Has yielded or may be likely to yield, information important in prehistory or history.
- (c) Integrity. Integrity is the authenticity of an historic or archeological resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historic or archaeological resources eligible for listing in the Local Register must meet one of the criteria of significance described in Section IV(b), above, and retain enough of their historic or archaeological character or appearance to be recognizable as historic or archaeological resources

and to convey the reasons for their significance. Historic or archaeological resources that have been preserved, rehabilitated, or restored according to the guidelines approved by the Secretary of Interior may also 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 changes in its use may themselves have historical, cultural, or architectural significance.

(d) Special Considerations:

(1) Moved buildings, structures, or objects. The Historic Site Board 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 Local Register if it was moved to prevent 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 historical 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 Local Register if it can be determined that sufficient time has passed to understand its historical importance.

(3) Reconstructed Buildings. Reconstructed buildings are those buildings not listed in the Local Register under the criteria in section IV b (1), (2), or (3) above. 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. An example of a reconstructed building is a Native American sweat lodge.

(e) Historic or Archaeological Resource Surveys. Historic or archaeological resources identified as significant in an historic or archaeological resource survey may be listed in the Local Register. In order to be listed, the survey must meet the following: (1) the resources meet the

criteria of Section IV(b), above, and (2) the survey documentation meets those standards of resource recordation established by the OHP in the "Instructions for Nominating Historical Resources to the California Register" (August 1997), Appendix B.

- (1) The Historic Site Board 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 has been met. If the survey meets the standards, the Historic Site Board shall recommend that all resources with a significance rating of 1 through 4, or any subcategories thereof, on DPR Form 523 be listed in the Local Register. The Historic Site Board shall review all category 5 determinations for consistency with the Local Register criteria of significance as found in Section IV(b), above. The Historic Site Board review will occur within sixty (60) days of receipt of the survey. At the end of sixty (60) days, the Historic Site Board will either (1) forward the survey to the Board of Supervisors for approval, 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
- (E) Category 5 – Locally significant.

- (2) 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 application for designation may serve as the update unless the Historic Site Board determines that additional updated information is necessary.

- (f) Historic or archaeological resources designated under the County of San Diego ordinances (Resource Protection Ordinance; Zoning Ordinance – Historical/Archaeological Landmark and District, Section 5700 et seq.) which have the authority to restrict demolition or alteration of historic or archaeological resources, where the criteria for designation or listing have not been officially approved by the Historic Site Board, may be nominated to the Local Register if, after review it is determined that the local designation meets the following criteria:

- (1) The ordinance provides for owner notification and agreement for local historic resource designation and an opportunity for public comment.
- (2) The criteria for county historic or archaeological resource designation consider the historic and/or prehistoric and/or architectural significance and/or architectural significance and integrity of the historic or archaeological 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 historic or archaeological integrity of the historic or archaeological resource.

V. Application Format

Applications shall include all items identified under General Requirements. All information shall be in accordance with the OHP "Instructions for Nominating Historical Resources to the California Register" (August 1997), Appendix B. Additional information may be required by the Historic Site Board on a case-by-case basis.

(a) General Requirements:

- (1) The applicant shall use the Application for Nomination to the Local Register of Historic and Archaeological Resources. The application shall be accompanied by a cover letter that contains a concise statement of significance. The statement of significance should clearly list the justification for the importance of the historic or archaeological resource.
- (2) The applicant shall use DPR Form 523 – California Historic Resources Inventory Form including any supplemental DPR forms as necessary. The DPR forms shall correspond to the date of recordation of the resource.
- (3) 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 historic or archaeological 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.

- (4) One or more color slides and black and white or color photos shall be provided to properly document the historic or archaeological resource. Color slides should provide a realistic overview of the historic or archaeological resource in its setting or detailed views of the historic or archaeological resource itself, as appropriate. The Historical Site Board may require that the applicant provide photos of contributing historic or archaeological resources on surveys that are over five (5) years old. All photos shall be labeled, including the date taken and a location of the image relative to the sketch map described above. If historic photos are available, the Historic Site Board recommends that they be included with the submission.
- (5) Primary numbers are assigned by the South Coastal Information Center. The applicant shall provide a copy of the application to the South Coastal Information Center no later than the time that the application is submitted to the Historical Site Board.
- (6) Ownership information. It is the responsibility of the applicant to provide complete information regarding the ownership of those historic or archaeological resources that the applicant wishes to be included in the Local Register. The ownership data must include assessor parcel numbers, maps, and a description of the resources. A legal description of the resources may be required in some cases. 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 or each owner is contributing or noncontributing to the significance of the district. Resources will not be considered for listing in the Local 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."
- (7) Optionally, a chain of title shall be included for the nominated resource. This will provide historical documentation regarding past owners of the nominated resource. The requirement of this information will be made by the Historic Site Board on a case-by-case basis.
- (8) A letter from the resource owner agreeing to the listing of the resource on the Local Register is required.

(b) Specific Requirements for Different Types of Historic and Archaeological Resources:

- (1) Individual nominated resources (i.e. building, site, structure, or object). An Application for Nomination to the Local Register of Historic and Archaeological Resources and a single completed DPR Form 523 or Form 422 shall be submitted for each historic or archaeological resource that is individually nominated.
- (2) Historic or Archaeological districts. In the case of an historic or archaeological 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 historic or archaeological resources and/or streetscapes shall be included. Black and white and color photographs of each contributing historic or archaeological resource and representative streetscape are required.
- (3) Archaeological resources. Archaeological resources will be considered for nomination only after having been assigned a Site Trinomial Number by the South Coastal Information Center. The Historic Site Board may require additional documentation to more accurately identify and define the site. An Application for Nomination to the Local Register of Historic or Archaeological Resources and the appropriate DPR Form 523 must be accompanied by a statement of significance or research design that explains why the resource qualifies for listing in the Local Register.
- (4) Historic or Archaeological resource survey. Historic or archaeological resources which have recordation forms already on file in the inventory with the South Coastal Information Center will not require additional DPR forms unless the Historic Site Board requests re-evaluation or re-survey. A cover letter shall provide an overview of survey methodology to verify that the survey meets the standards discussed in Section IV(e) of Types of Historic or Archaeological Resources and Criteria for Listing in the San Diego County Register of Historic or Archaeological Resources and adequate mapping showing all areas surveyed.
- (5) Historic or archaeological resources and historic or archaeological districts designated or listed as a county landmark, historic or archaeological resources or districts pursuant to county ordinance,

and local landmarks and other resources designated under county ordinances. DPR Form 523 shall be submitted for all local landmarks or locally designated historic or archaeological resources that have not previously been documented or do not have approved recordation forms on file with the South Coastal Information Center. Additionally, a cover letter and Application for the Nomination to Local Register of Historic or Archaeological Resources shall be submitted.

VI. Application Procedures

- (a) Submitting the application. Historic or archaeological resources may be nominated by any individual or group including, but not limited to, members of the general public, private organizations, or local government (County of San Diego) with control authority over the designated historic or archaeological resource.
- (b) If the applicant is not the owner of the resource being nominated, within thirty (30) days of receipt of the application, the Historic Site Board shall provide a copy of the application to the owner and request any additional information.
- (c) The application shall be submitted to the San Diego County Historic Site Board at the Department of Planning and Land Use, 5201 Ruffin Road, Suite B, San Diego, CA 92123-1666

VII. Historic Site Board Public Hearing of a Nomination

After technical review by staff and the Historical Site Board, the nomination will be scheduled for a hearing by the Historical Site Board. Prior to the Public Hearing, a Staff Report will be prepared and transmitted to the members of the Historic Site Board. The Staff Report will include the complete application materials, findings necessary to support the determination of significance, and any other materials determined necessary to properly evaluate the historic or archaeological resource for listing. The Historical Site Board will only consider comments that relate to the criteria for listing a resource in the Local Register.

- (a) Public notification. At least ten (10) days before the hearing to consider the nomination for listing, the Historic Site Board shall do all of the following:
 - (1) Notify all affected historic or archaeological resource owners that their resource has been nominated for listing; the time and place set for the hearing; and that the Historic Site Board will consider public comments related to whether the resource meets the criteria for listing

in the Local Register as well as any objections of the owner(s). The absence of a reply will be interpreted as consent to the historical resource designation.

- (2) Notify the interested local agencies or groups 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 Historic Site Board hearing notices of the scheduled hearing date and the opportunity to comment on the nomination.
 - (4) In the case of an historic or archaeological district, nominated either individually or as part of a survey, the Historic Site Board must make a reasonable effort to obtain the identities and addresses of all owners of resources within the proposed district. The Historic Site Board 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.
 - (5) Site visits shall be made in accordance with the Historic Site Board's adopted policies and procedures.
- (b) Support of or objections to the nomination. The Historic Site Board shall consider public comments when determining whether to recommend the listing of an historic or archaeological resource to the Local Register. Any person or organization, including the following, may submit supporting or opposing comments to the Historic Site Board before the hearing.
- (1) Resource owners. Private resource owners must submit a letter to the Historic Site Board stating that they are the sole or partial owners, and that they agree to the listing of the resource on the Local Register. If a private resource owner does not submit the letter of agreement, the absence of a reply will be interpreted as non-consent to the listing of the resource. The resource may be formally determined eligible for listing, but will not be listed until a letter of agreement is received from the resource owner.
 - (A) Each owner or partial owner of a privately owned individual historic or archaeological 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 Historic Site Board may designate the resource as “formally determined eligible for listing in the Local Register.” A resource that has been determined eligible may be listed at a later time if, and when, the objection is withdrawn.
- (c) Determinations of eligibility and formal listing. A privately owned resource may not be listed in the Local 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 Local 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(s) has objected.
- (1) If a private resource cannot be listed solely due to owner objection, the Historic Site Board may designate the resource as “formally determined eligible for listing.”
 - (2) An historic or archaeological resource shall be considered formally “listed in the Local Register” when the Director of Planning and Land Use (Director), upon reviewing the nomination and the recommendation for listing from the Historic Site Board, designates the resource as eligible for listing and accepts it for official listing in the Local Register.
 - (3) The Director shall adopt written findings to support its determinations. Findings shall include a description of the historic or archaeological resources; the historic, archaeological, or cultural significance of the resources; recommendation for listing from the Historic Site Board; 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 Director, the Historic Site Board shall notify the applicant and resource owner(s) in writing of the Director’s decision.

VIII. Criteria and Procedures for Removal of an Historical Resource from the Local Register of Historical Resources.

Historic or Archaeological resources are formally determined eligible for, or listed in, the Local Register on the basis of an evaluation of the historic or archaeological data by qualified professionals. The Historic Site Board may,

at its discretion, consider a request for formal delisting after a public hearing has taken place.

- (a) The Historic Site Board may recommend the removal of an historic or archaeological resource from the Local Register if one of the following criteria is satisfied:
 - (1) The historic or archaeological resource, through demolition, alteration, or loss of integrity has lost its historic qualities or potential to yield information; or
 - (2) New information or analysis shows that the historic or archaeological resource was not eligible at the time of its listing.
- (b) Documentation supporting a request for removal of an historic or archaeological resource from the Local Register shall be provided to the Historic Site Board for its review. The documentation shall include:
 - (1) A written request from the resource owner requesting the removal of the resource, including a detailed justification based on the criteria listed in Section A above;
 - (2) Photographs and other documentation regarding the current condition of the historic or archaeological resource;
 - (3) Photographic and archival documentation of the historic or archaeological resource at the time of listing; and
 - (4) Complete current ownership information for historic or archaeological resources included in the listing.
- (c) The Historic Site Board shall notify the resource owners, 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 Historic Site Board shall hear comments and receive information regarding whether or not the criteria for removal of an historic or archaeological resource from the Local Register have been met. If the criteria have been met, the Historic Site Board shall recommend to the Director that the resource be removed from the Local Register. If the criteria for removal have not been met, the historic or archaeological resource shall remain in the Local Register. The decision of the Director shall be final unless a request for reconsideration is made pursuant to Section IX of this ordinance.

- (d) The Historic Site Board shall notify the resource owners, the general public, and the individual, organization, or government agency that made the original nomination within sixty (60) days after a final decision has been made by the Director. The decision of the Director shall be binding.

IX. Requests for Redetermination by the Historical Site Board

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

- (a) The Historic Site Board has the power to reverse or alter its prior recommendations, 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 Historic Site Board 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 Historic Site Board.
- (c) The Historic Site Board will forward their recommendation to the Director for final decision.
- (d) 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, and that no person who had an ownership interest in or occupied the subject property has caused such destruction or elimination by any act, omission or neglect.

X. Appeals.

If a request for redetermination is denied, the decision of the Director may be appealed to the Board of Supervisors within ten days. Hearings before the Board of Supervisors shall be scheduled by the Clerk of the Board of Supervisors for a date not less than 10 days but not more than 90 days from the date the appeal is filed.

XI. Saving Clause.

If any one or more of the regulations, 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.