

Title 22. Public Property

Chapter XIII. Division of Arkansas Heritage, Department of Parks, Heritage, and Tourism

Subchapter A. Generally

Part 82. Arkansas State Capitol and Historical Monument Protection Act Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Effective Date: June 27, 2022"

"1.0 REGULATORY AUTHORITY AND PURPOSE

1.01 The Arkansas Department of Parks, Heritage and Tourism enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §22-3-2101 et seq., Arkansas History Commission§ 13-3- 103 et seq. and §25-15-201 et seq., Ark. Code Ann. §25-15-203 (a)(1)(2)."

Subpart 1. Rules

22 CAR § 82-101. Purpose.

The purpose of this part in accordance with the Arkansas State Capitol and Historical Monument Protection Act, Acts 2021, No. 1003, the "act", codified as Arkansas Code § 22-3-2101 et seq., is to:

- (1) Establish a process for the application of a waiver under the act;
- (2) Create a process for the approval of a temporary waiver on an emergency basis;
- (3) Establish guidelines regarding what will be designated as a historical monument;

(4) Create an application process for registering historical monuments erected after April 28, 2021;

(5) Establish guidelines for the disposition of historical monuments if a waiver is granted to remove a historical monument; and

(6) Otherwise effectuate the purposes of the act.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-102. Organization.

The rules required under the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., shall be promulgated, interpreted, and implemented by the Arkansas History Commission as part of Arkansas State Archives as set forth in Acts 2021, No. 1003.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-103. Definitions.

As used in this part:

(1) "Act" means the Arkansas State Capitol and Historical Monument Protection Act as codified at Arkansas Code § 22-3-2101 et seq.;

(2) "Arkansas State Archives" means the Arkansas State Archives, which is an agency within the Division of Arkansas Heritage of the Department of Parks, Heritage, and Tourism;

(3) "Department" means the Department of Parks, Heritage, and Tourism;

(4)(A) "Historical monument" means a statue, memorial, gravestone plate, plaque, or historic flag display that is located:

(i) On public property and was installed, erected for, or named or dedicated in honor of a historical person, historical event, public service organization, firefighter, police officer, military organization, or military unit, including without limitation:

- (a) The French and Indian War;
- (b) The American Revolution;
- (c) The War of 1812;
- (d) The Mexican-American War;
- (e) The American Civil War;
- (f) The Spanish-American War;
- (g) The Mexican Border War;
- (h) World War I;
- (i) World War II;
- (j) The Korean conflict;
- (k) The Vietnam War;
- (l) Operation Urgent Fury;
- (m) Operation El Dorado Canyon;
- (n) Operation Just Cause;
- (o) The Gulf War;
- (p) Operation Enduring Freedom; and
- (q) Operation Iraqi Freedom;

(ii) On public property and has been listed on the National Register of Historic Places; or

(iii) In a veteran's cemetery.

(B) "Historical monument" does not include:

- (i) A temporary exhibit;
- (ii) A temporary structure;
- (iii) A street sign; or
- (iv) Public property of the State Highway Commission;

(5)(A) "History Commission" means the Arkansas History Commission.

(B) The Arkansas History Commission was created under Arkansas Code § 13-3-102 and consists of seven (7) members appointed by the Governor that serve as the Arkansas Historical Advisory Board to assist public and private nonprofit

organizations throughout the state in the acquisition, preservation, and use of records of enduring value.

(C) The Arkansas History Commission is a part of the Arkansas State Archives.

(D) The Arkansas History Commission's primary statutory purpose is to advise and assist the Secretary of the Department of Parks, Heritage, and Tourism in the discharge of his or her duties in regard to the Arkansas State Archives;

(6) "Memorial" means an identifiable place that is set aside for the purpose of preserving the memory of a:

- (A) Historical person;
- (B) Historical event;
- (C) Public service organization;
- (D) Firefighter;
- (E) Police officer;
- (F) Military organization; or
- (G) Military unit;

(7) "Monument" means a statue, building, or other structure erected to commemorate a famous or notable person or event;

(8) "Person" means an individual or entity;

(9) "Public property" means all real or personal property owned or leased by:

- (A) The state;
- (B) A county;
- (C) A municipality; or

(D) Any other entity or subdivision of the state, a county, or a municipal entity that is created by an act of the General Assembly to perform a public function;

(10) "Staff" means staff employed by the Arkansas State Archives or other employees of the Division of Arkansas Heritage as directed to assist the Arkansas History Commission by the Secretary of the Department of Parks, Heritage, and Tourism; and

(11) "State Capitol", per statute, means the land, parking areas, and streets surrounding the State Capitol Building, the Capitol Hill Apartments building, the Grounds Operations shop, and other land that is maintained by the Secretary of State.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-104. Preservation of historical monuments.

(a) Except as permitted by law or authorized under this part, a historical monument shall not be relocated, vandalized, damaged, destroyed, removed, altered, renamed, rededicated, or otherwise disturbed.

(b) Subsection (a) of this section does not prohibit a governmental entity having responsibility for maintaining a historical monument from:

(1) Taking proper and appropriate measures and exercising proper and appropriate means for the protection, preservation, care, repair, or restoration of the historical monument; and

(2) Temporarily removing or relocating the historical monument to repair public property or any public infrastructure surrounding the historical monument if the governmental entity:

(A) Removes or relocates the historical monument for less than sixty (60) days; and

(B) Ensures the protection of the historical monument while a historical monument is removed or relocated.

(c)(1) Subsection (a) of this section does not prohibit a local government entity from removing, storing, stabilizing, altering, or otherwise displacing a historical monument for less than sixty (60) days to install, relocate, repair, or alter a public infrastructure if the local government entity exercises proper and appropriate means for the protection, preservation, care, repair, or restoration of the historical monument.

(2)(A) If a local government entity plans to remove, store, stabilize, alter, or otherwise displace a historical monument for more than sixty (60) days to install,

relocate, repair, or alter a public infrastructure, the local government shall obtain a waiver from the Arkansas History Commission.

(B) In the waiver application, the public entity shall include details to ensure the protection of the historical monument while it is removed or relocated.

(d) Subsection (a) of this section does not apply to the replacement or repair of a frayed, soiled, or damaged flag that is part of a historic flag display if the frayed, soiled, or damaged flag is replaced with a similar flag.

(e) Subsection (a) of this section does not apply to the Capitol Arts and Grounds Commission or the Office of the Secretary of State.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-105. Application procedures.

(a)(1) Determinations to be made by the Arkansas History Commission under the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., shall be initiated through the submission of a written application.

(2) Applications shall be submitted for the following purposes:

(A) Seeking a waiver under the Arkansas State Capitol and Historical Monument Protection Act;

(B) Seeking a temporary waiver under the Arkansas State Capitol and Historical Monument Protection Act on an emergency basis;

(C) Seeking an advisory opinion on whether an item is a historical monument;

(D) Registering a historical monument erected after April 28, 2021; and

(E) Seeking the guidance on the disposition of a historical monument if a waiver has been granted.

(3) The application forms will be made available online at www.arkansasheritage.com/arkansasstatearchives/home or other web address as established by the Department of Parks, Heritage, and Tourism.

(b)(1) The commission may place a hold on, or deny, review of an incomplete application, including one not submitted on the proper form.

(2) Staff shall assist all applicants in ensuring a complete and accurate application is submitted.

(3) All applications shall be submitted electronically to the Arkansas State Archives through email at:

(A) HistoricalMonumentProtectionAct@arkansas.gov; or

(B) Such other email address as may be designated by the department from time to time.

(c)(1) All applications received will first be reviewed by staff who will conduct an evaluation of each submission in accordance with:

(A) The Arkansas State Capitol and Historical Monument Protection Act;

(B) This part; and

(C) The subject matter of the application.

(2) Thereafter, when staff has had reasonable time within which to conduct an adequate evaluation, it shall make a recommendation of determination to the commission at its next meeting.

(3) The commission reserves the right to remand applications back to the applicant and staff for further development when it does not have enough information with which to make a determination.

(4) In such event, the history commission shall provide the necessary guidance to the applicant and the staff.

(d) The final decisions of the commission shall be documented in writing.

(e) Application for waiver from the Arkansas State Capitol and Historical Monument Act.

(1)(A) The Arkansas State Capitol and Historical Monument Protection Act does not prohibit a governmental entity having responsibility for maintaining a historical monument from:

(i) Taking proper and appropriate measures, and exercising proper and appropriate means for the protection, preservation, care, repair, or restoration of the historical monument; and

(ii) Temporarily removing or relocating the historical monument to repair public property or any public infrastructure surrounding the historical monument if the governmental entity:

(a) Removes or relocates the historical monument for less than sixty (60) days; and

(b) Ensures the protection of the historical monument while the historical monument is removed or relocated.

(B) Under such circumstances, no application for waiver need be submitted.

(2) A person exercising control of public property that is a historical monument or on which a historical monument is situated may apply to the commission for a waiver from the requirements of 22 CAR § 82-104.

(3)(A) Applicants may complete a Petition for Waiver form provided by the archives that includes a justification for the waiver, including the stated reason the waiver is sought.

(B) The application for waiver may include the submission of detailed information and documentation supporting the petition.

(C) The application forms will be made available online at www.arkansasheritage.com/arkansasstatearchives/home or other web address as established by the department.

(4) Application for a waiver must be received and approved prior to any removal that lasts longer than sixty (60) days.

(f) Application for a temporary waiver from the Arkansas State Capitol and Historical Monument Protection Act on an emergency basis.

(1)(A) If circumstances exist such that the Arkansas State Capitol and Historical Monument Protection Act does not permit removal and relocation of a historical monument without a waiver from the commission, the procedures for the

application and receipt of a waiver from the commission as provided in this section are inapplicable or impractical, and an emergency exists wherein a historical monument must be removed or relocated quickly to ensure its protection, preservation, care, repair, or restoration, the procedures of this subsection shall apply.

(B) Under the foregoing circumstances, a governmental entity having responsibility for a historical monument may apply for a temporary waiver.

(2)(A) A temporary waiver on an emergency basis shall be sought by contacting the Secretary of the Department of Parks, Heritage, and Tourism to request that a temporary waiver be granted.

(B) The request:

(i) May be made:

(a) In person;

(b) By telephone at (501) 682-6900; or

(c) Through email at

HistoricalMonumentProtectionAct@arkansas.gov or at such other email address as may be designated by the department from time to time; and

(ii) Shall include all details necessary to document the basis for the issuance of a temporary waiver.

(C) If the application is time critical, the secretary may verbally grant the temporary waiver to ensure the emergency is addressed on a timely basis, but shall require the applicant to submit an application for temporary waiver on an emergency basis per the requirements of 22 CAR § 82-104 as soon as practical thereafter.

(D) The written application shall include a recital of the details of the emergency that resulted in the granting of the temporary waiver and the time period of the waiver as determined by the secretary in his or her reasonable discretion as well as reasonable conditions and instructions to ensure that the historical monument is protected to the greatest extent possible.

(E) Temporary waivers granted on an emergency basis are reviewable by the commission, which may confirm, modify, or rescind the terms of such waivers.

(g) Application for determination of a historical monument by the Arkansas History Commission.

(1) A governmental entity may request an advisory opinion from the commission of whether a statue, memorial, gravestone plate, plaque, or historic flag display qualifies as a historical monument under the Arkansas State Capitol and Historical Monument Protection Act.

(2) The commission guidelines provide parameters for designation of historical monuments, including:

- (A) Historic conflicts;
- (B) Historic entities;
- (C) Historic events;
- (D) Historic figures;
- (E) Historic organizations; and
- (F) Memorials.

(3) The guidelines are a part of this part and will be available on the archives' website at www.arkansasheritage.com/arkansasstatearchives/home.

(4)(A) In accordance with Arkansas Code § 22-3-2105(e) the commission shall establish guidelines regarding what will be designated as a historical monument.

(B) Accordingly, said guidelines shall be in accordance with the express requirements of the Arkansas State Capitol and Historical Monument Protection Act and any other Arkansas laws and amendments thereto as such may be made from time to time.

(C) Such includes, without limitation:

- (i) The statutory definition of "historical monument"; and
- (ii) Other definitions as provided at Arkansas Code § 22-3-2102.

(D) For matters in which the law may leave this issue to the interpretation of the commission, the guidelines shall require the commission to review such matters on a case-by-case basis and in its collective and subjective opinion take the following factors under consideration:

- (i) The applicable law so that no determination is made in contravention of the law;
- (ii) The relevance of the item in question to local, state, national, or world history;
- (iii) The location and character of the item and the manner in which it is displayed;
- (iv) Whether the item accurately reflects a historical figure or event and in a manner that is commonly accepted to be historical;
- (v) The credibility of any documentation, including academic papers if available, for the history represented by the item; and
- (vi) Public comments from Arkansas residents that may be submitted on the subject matter.

(E) Any entity seeking an advisory opinion concerning historical monument designation may submit an application to the commission using the Historical Designation application available on the archives' website at www.arkansasheritage.com/arkansasstatearchives/home.

(5) Arkansas History Commission evaluation of the monument.

(A) Factors that can be considered include the following items:

- (i) Association of the monument with events that have made a significant contribution to, and are identified with, or that outstandingly represents, the broad national patterns of United States and/or Arkansas history and from which an understanding and appreciation of those patterns may be gained;
- (ii) Association with the lives of persons nationally significant in the history of the United States and/or Arkansas; or
- (iii) Representation of a historical idea or ideal associated with the people of the United States, generally, or the people of Arkansas.

(B) This list is not exclusive as the commission may consider other factors.

(h) Application for registration of historical monuments erected after April 28, 2021.

(1) All applications for registration of historical monuments erected after April 28, 2021, will be available on the archives' website at www.arkansasheritage.com/arkansasstatearchives/home.

(2) The application shall:

(A) Be submitted through email at:

(i) HistoricalMonumentProtectionAct@arkansas.gov; or

(ii) Such other email address as may be designated by the department from time to time; and

(B) Include all details necessary for applying to register historical monuments.

(3) The recommendation of determination by the staff shall be submitted electronically to the:

(A) Commission;

(B) Director of the Arkansas State Archives;

(C) Director of the Division of Arkansas Heritage; and

(D) Secretary.

(4) The commission may issue an advisory opinion of designation of a historical monument or grant a petition for waiver by a majority vote of those present and voting at a regularly scheduled commission meeting.

(i) **Previously removed monument in possession of governmental entity.** A governmental entity shall request a waiver from the commission for a historical monument that previously has been removed but is still in the possession of a governmental entity to determine the disposition of the historical monument.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-106. Waiver granted.

(a) If a waiver is granted by the Arkansas History Commission, the waiver shall:

(1) Be in writing; and

(2) Include reasonable conditions and instructions to ensure that the historical monument is preserved to the greatest extent possible.

(b)(1) If a waiver is granted by the commission for the removal of a historical monument, the waiver shall:

(A) Be in writing; and

(B) Include reasonable conditions and instructions for the disposition of the historical monument.

(2) These guidelines will be available regarding disposition on the Arkansas State Archives website at www.arkansasheritage.com/arkansasstatearchives/home.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-107. The Freedom of Information Act of 1967.

(a) The Freedom of Information Act of 1967, codified at Arkansas Code § 25-19-101 et seq., requires the Arkansas History Commission to conduct its deliberations in a public meeting.

(b) Accordingly, staff shall be present at such meetings to answer questions concerning applications that are being reviewed by the commission.

(c)(1) Under the Freedom of Information Act of 1967, applicants are permitted to attend the commission meetings but are not entitled to participate in the meeting.

(2) However, the Chair of the Arkansas History Commission may direct questions to an applicant that is in attendance at a meeting, and an applicant may respond to the questions asked if called upon to do so.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-108. Applicability.

A petition for a waiver may be authorized under Arkansas Code § 22-3-2104(b) if the application of this part interferes with the construction, maintenance, or operation

of a public facility owned or managed by the Department of Parks, Heritage, and Tourism.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-109. Application of timing.

(a) A historical monument in existence on the effective date of the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., April 28, 2021, is considered a historical monument for the purposes of Acts 2021, No. 1003.

(b) A historical monument not currently displayed by a public entity is considered a historical monument for the purposes of the Arkansas State Capitol and Historical Monument Protection Act.

Authority. Arkansas Code § 22-3-2105.

Subpart 2. Guidelines for the Arkansas State Capitol and Historical Monument Protection Act of 2021

22 CAR § 82-201. Generally.

(a)(1) The Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., was enacted in 2021.

(2) The Arkansas State Capitol and Historical Monument Protection Act prohibits the removal, relocation, alteration, or renaming of a memorial that is located on public property if the monument will be moved or relocated for more than sixty (60) days.

(b)(1) A public entity exercising control of a memorial may petition the Arkansas History Commission in writing for a waiver from the prohibition.

(2) After consideration of the petition, the commission will vote on whether to grant or deny the waiver.

(c)(1) The Arkansas State Capitol and Historical Monument Protection Act also provides for a temporary waiver on an emergency basis that can be submitted and granted verbally or in writing.

(2) If a waiver is granted, recommendations as to disposition of the historical monument will be provided by the commission.

(d)(1) The Arkansas State Capitol and Historical Monument Protection Act also requires governmental entities to register historical monuments with the commission that were erected after the effective date of the Arkansas State Capitol and Historical Monument Protection Act, April 28, 2021.

(2) The governmental entities may request an advisory opinion from the commission determining whether the memorial displayed is a historical monument.

(3) After consideration of the request, the commission will vote on whether the monument is determined to be a historical monument.

(4) The commission will provide a registration process for the registration of historical monuments that were erected after the effective date of the Arkansas State Capitol and Historical Monument Protection Act, April 28, 2021.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-202. Purpose of the guidelines.

The purpose of this subpart is to explain the application procedure and process established for the Arkansas State Capitol and Historical Monument Protection Act of 2021, Arkansas Code § 22-3-2101 et seq.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-203. Application of guidelines.

(a) This subpart applies to any Arkansas state government entity, county, city, town, or municipality that owns a historical monument.

(b) This subpart does not apply to private entities or businesses that own a historical monument.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-204. Advisory opinion for historical designation.

(a) Any Arkansas state government entity, county, city, town, or municipality that owns a historical monument may seek an advisory opinion from the Arkansas History Commission as to whether their monument is an eligible monument protected under the Arkansas State Capitol and Historical Monument Protection Act of 2021, Arkansas Code § 22-3-2101 et seq.

(b)(1) Applications may be found on the Arkansas State Archives website at www.arkansasheritage.com/arkansasstatearchives/home.

(2) The applications must be submitted online through email at:

(A) HistoricalMonumentProtectionAct@arkansas.gov; or

(B) Such other email address as may be designated by the Department of Parks, Heritage, and Tourism from time to time.

(c) Monuments protected under the Arkansas State Capitol and Historical Monument Protection Act include any of the following that are located on public property and were installed, erected for, or named or dedicated in honor of a historical person, historical event, public service organization, firefighter, police officer, military organization, or military unit:

(1) Statue;

(2) Memorial;

(3) Gravestone plate;

(4) Plaque;

(5) Historic flag display; and

(6) Any of the above that:

(A) Has been listed in the National Register of Historic Places; or

(B) Is located in a state or municipally owned veterans' cemetery.

(d) These guidelines apply to historical monuments, defined as a statue, memorial, gravestone plate, plaque, or historic flag display that is located:

(1) On public property and was installed, erected for, or named or dedicated in honor of a historical person, historical event, public service organization, firefighter, police officer, military organization, or military unit, including without limitation:

- (A) The French and Indian War;
- (B) The American Revolution;
- (C) The War of 1812;
- (D) The Mexican-American War;
- (E) The American Civil War;
- (F) The Spanish-American War;
- (G) The Mexican Border War;
- (H) World War I;
- (I) World War II;
- (J) The Korean conflict;
- (K) The Vietnam War;
- (L) Operation Urgent Fury;
- (M) Operation El Dorado Canyon;
- (N) Operation Just Cause;
- (O) The Gulf War;
- (P) Operation Enduring Freedom; and
- (Q) Operation Iraqi Freedom;

(2) On public property and has been listed on the National Register of Historic Places; or

(3) In a veteran's cemetery.

(e) Monuments that are not protected include:

- (1) A temporary exhibit;
- (2) A temporary structure;
- (3) A street sign; and
- (4) Public property of the State Highway Commission.

(f) For a governmental entity that has moved a historical monument prior to April 28, 2021, and the governmental entity is still in possession of the historical monument, the governmental entity must apply for a waiver before any further steps of disposition are taken for the historical monument.

(g) The commission will consider the applications on a case-by-case basis and, on matters in which the law may leave this issue to the interpretation of the commission, the guidelines shall require the commission to review such matters on a case-by-case basis and in its collective and subjective opinion take the following factors under consideration:

(1) The applicable law so that no determination is made in contravention of the law;

(2) The relevance of the item in question to local, state, national, or world history;

(3) The location and character of the item and the manner in which it is displayed;

(4) Whether the item accurately reflects a historical figure or event and in a manner that is commonly accepted to be historical;

(5) The credibility of any documentation, including academic papers if available, for the history represented by the item; and

(6) Public comments from Arkansas residents that may be submitted on the subject matter.

(h)(1) In evaluation of the applications, the commission can consider the following factors in evaluation of the monument to determine whether the item is a historical monument:

(A) Association of the monument with events that have made a significant contribution to, and are identified with, or that outstandingly represents, the broad national patterns of United States and/or Arkansas history and from which an understanding and appreciation of those patterns may be gained;

(B) Association with the lives of persons nationally significant in the history of the United States and/or Arkansas; or

(C) Representation of a historical idea or ideal associated with the people of the United States, generally, or the people of Arkansas.

(2) This list is not exclusive as the commission may consider other factors.

(i)(1) In making decisions regarding historical designation, the commission may issue an advisory opinion for historical designation by a majority vote of those present and voting at a regularly scheduled commission meeting.

(2) The decision will be made in writing by the commission.

(j) A list of registered historical monuments erected after the effective date of the Arkansas State Capitol and Historical Monument Protection Act, April 28, 2021, will be:

(1) Updated following each commission meeting; and

(2) Available online at

www.arkansasheritage.com/arkansasstatearchives/home.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-205. Waivers — Application and process.

(a) Determinations to be made by the Arkansas History Commission under the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101, shall be initiated through the submission of an application.

(b) Applications shall be submitted for the following purposes:

(1) Seeking a waiver under the Arkansas State Capitol and Historical Monument Protection Act; or

(2) Seeking a temporary waiver under the Arkansas State Capitol and Historical Monument Protection Act on an emergency basis.

(c) The application forms will be made available online at www.arkansasheritage.com/arkansasstatearchives/home or other web address as established by the Department of Parks, Heritage, and Tourism.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-206. Waiver.

(a)(1) Applications for a waiver may be found on the Arkansas State Archives website at www.arkansasheritage.com/arkansasstatearchives/home.

(2) The applications must be submitted online through email at:

(A) HistoricalMonumentProtectionAct@arkansas.gov; or

(B) Such other email address as may be designated by the Department of Parks, Heritage, and Tourism from time to time.

(b)(1) The Arkansas History Commission may place a hold on or deny review of an incomplete application, including one not submitted on the proper form.

(2) Staff shall assist all applicants in ensuring a complete and accurate application is submitted.

(3) All applications shall be submitted electronically to the archives through email at:

(A) HistoricalMonumentProtectionAct@arkansas.gov; or

(B) Such other email address as may be designated by the department from time to time.

(c)(1) All applications received will first be reviewed by staff who will conduct an evaluation of each submission in accordance with:

(A) The Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq.;

(B) This part; and

(C) The subject matter of the application.

(2) Thereafter, when staff has had reasonable time within which to conduct an adequate evaluation, it shall make a recommendation of determination to the commission at its next meeting.

(3) The commission reserves the right to remand applications back to the applicant and staff for further development when it does not have enough information with which to make a determination.

(4) In such event, the commission shall provide the necessary guidance to the applicant and the staff.

(d)(1) The commission must receive a completed application for a waiver at least two (2) weeks prior to a regularly scheduled meeting of the commission immediately preceding the projected removal or relocation for which the waiver is sought.

(2) This does not apply to applications for a temporary waiver on an emergency basis.

(e)(1) All applications for a Petition for Waiver submitted to the archives will be reviewed by staff who will:

(A) Conduct an evaluation; and

(B) Make a recommendation of determination.

(2) The commission shall consider the Petition for Waiver and the staff recommendation in making a determination.

(f)(1) The commission may grant a Petition for Waiver by a majority vote of those present and voting at a regularly scheduled commission meeting.

(2) The decision will be made in writing and may include reasonable conditions and instructions to ensure that the historical monument is preserved to the greatest extent possible.

(3)(A) The decision will be transmitted electronically to applicants to the email address used to submit the applications.

(B) Upon request, a hard copy of the decision can be mailed to the applicant.

(g) If a waiver is granted for removal of a historical monument, the title of the removed historical monument shall be transferred to the entity receiving the historical monument.

(h) The final decisions of the commission shall be documented in writing.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-207. Temporary waiver on an emergency basis.

(a)(1) If circumstances exist such that the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., does not permit removal

and relocation of a historical monument without a waiver from the Arkansas History Commission, the procedures for the application and receipt of a waiver from the commission are inapplicable or impractical, and an emergency exists where a historical monument must be removed or relocated quickly to ensure its protection, preservation, care, repair, or restoration, the procedures of a Temporary Waiver on an Emergency Basis shall apply.

(2) Under these circumstances, a governmental entity having responsibility for a historical monument may apply for a temporary waiver.

(b) A temporary waiver on an emergency basis shall be sought by contacting the Secretary of the Department of Parks, Heritage, and Tourism to request that a temporary waiver be granted.

(c) The request:

(1) May be made:

(A) In person;

(B) By telephone at (501) 324-9162; or

(C) Through email at:

(i) HistoricalMonumentProtectionAct@arkansas.gov; or

(ii) Such other email address as may be designated by the

Department of Parks, Heritage, and Tourism from time to time; and

(2) Shall include all details necessary to document the basis for the issuance of a temporary waiver.

(d) If the application is time critical, the secretary may verbally grant the temporary waiver to ensure the emergency is addressed on a timely basis but shall require the applicant to submit an application for temporary waiver on an emergency basis per the requirements of 22 CAR § 82-105 as soon as practical thereafter.

(e) The written application shall include all details of the emergency that resulted in the granting of the temporary waiver and the time period of the waiver as determined by the secretary in his or her reasonable discretion as well as reasonable conditions and instructions to ensure that the historical monument is protected to the greatest extent possible.

(f) Temporary waivers granted on an emergency basis are reviewable by the commission, which may confirm, modify, or rescind the terms of such waivers.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-208. Waiver granted — Disposition of historical monuments.

(a)(1) The Arkansas History Commission will provide general guidelines if any type of waiver is granted that allows the disposition of a historical monument.

(2) The waiver will include information related to the disposition of the monument.

(b) These guidelines may include, without limitation:

- (1) Return of the historical monument to the donor's heirs or assigns;
- (2) Return of the historical monument to an organization that donated the historical monument or the organization's successor or assigns;
- (3) Return of the historical monument to an organization that donated the historical monument or the organization's successor or assigns; or
- (4) Donation of the historical monument to a public entity.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-209. Registration of historical monuments.

(a) Registration is required for monuments erected after the passage of the Arkansas State Capitol and Historical Monument Protection Act, Arkansas Code § 22-3-2101 et seq., April 28, 2021.

(b) Applications for registration of historical monuments erected after April 28, 2021, will be available on the Arkansas State Archives website at www.arkansasheritage.com/arkansasstatearchives/home.

(c) The application shall:

- (1) Be submitted through email at:
 - (A) HistoricalMonumentProtectionAct@arkansas.gov; or

(B) At such other email address as may be designated by the Department of Parks, Heritage, and Tourism from time to time; and

(2) Include all details necessary for applying to register historical monuments.

(d)(1) Applicants should submit supporting documentation with their application.

(2) Any documentation submitted with the registration form shall be submitted electronically in PDF or JPG format.

(e) Applicant will receive confirmation email upon receipt of application.

Authority. Arkansas Code § 22-3-2105.

22 CAR § 82-210. Questions.

Any questions related to the wavier application process can be submitted to the Arkansas History Commission by:

(1) Email at HistoricalMonumentProtectionAct@arkansas.gov; or

(2) Phone at (501) 682-6900.

Authority. Arkansas Code § 22-3-2105.