

# *What's What in Historic at the Local Level of*



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# *Authority*

## *California Constitution*

- Grants every city and county police power
- Police power enables local governments to act to protect the health, safety, and welfare of their citizens



# *Authority*

## *California Courts*

- Historic Preservation is a valid public purpose, which is an important prerequisite for all government actions



- Land use regulations, including zoning and historic preservation ordinances, are authorized under the public welfare component of the police power

# *Enabling Authority-U. S. Supreme*

- “The concept of the public welfare is broad and inclusive. . . . The values it represents are spiritual as well a physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balances as well as carefully patrolled.” *Berman v. Parker (1954)*
- Upheld the constitutionality of NYC’s historic preservation ordinance and found such an ordinance to be a “valid public purpose and legitimate function of local government.” *Central Transportation v. NYC (1978)*

# *Authority*

## *California Statutes*

- Specifically authorizes local governments to acquire and protect historic resources
  - Counties:
    - California Government Code 25373(b)
  - Cities:
    - California Government Code 37361(b)



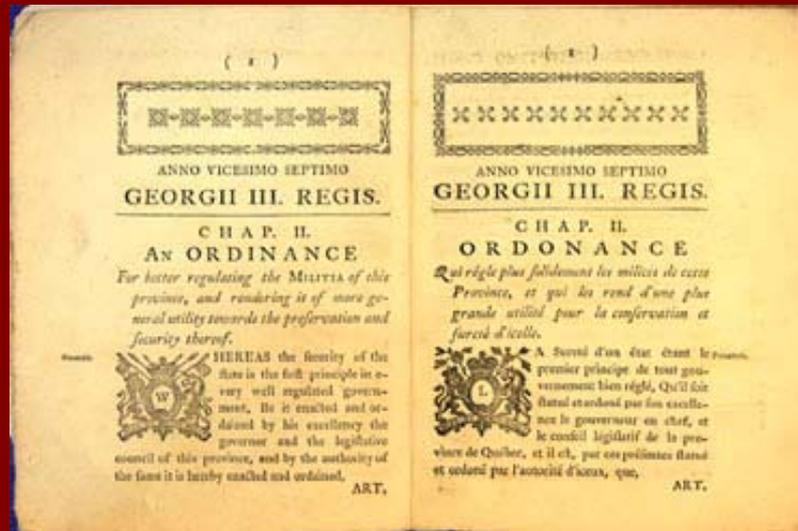
# *Comprehensive Preservation Program*



- Historic Preservation Element
- Ordinance
- Surveys and Contexts
- Economic Benefits & Incentives
- Education, Technical Assistance & Outreach Programs

# Authority

## Local Legislation



- The ordinance is the basic authority for the local preservation program

# *KEY ELEMENTS*

- Purpose
- Enabling Authority
- Preservation Commission
- Designation Procedures & Criteria
- Actions subject to Review
- Economic Effects

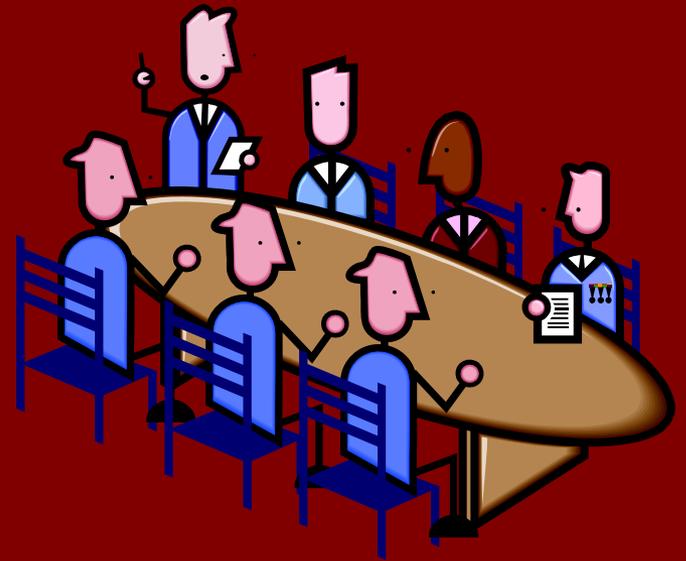


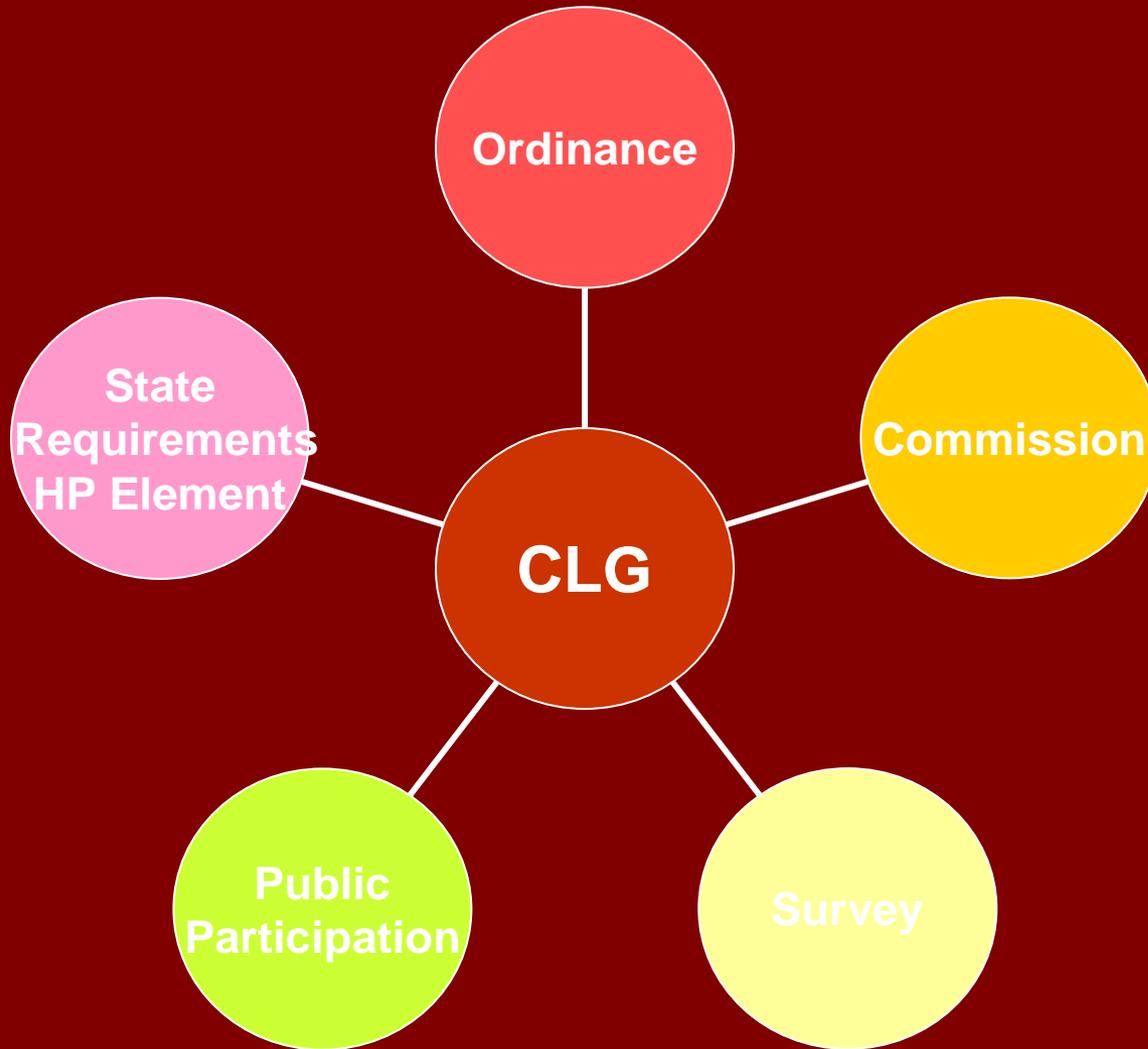
- Enforcement
- Appeals
- Definitions
- Severability

# *Establishment of the Preservation Commission*

## Scope of Powers

- Maintain local inventory
- Designation
- Review and Comment
- Make recommendations
- Incentives
- Public education
- Relationship with Planning Commission, City Council, and other agencies





# *CLG REQUIREMENTS*

1. Enforce state and local laws and regulations for the designation and protection of historic properties
2. Establish an historic preservation review commission by local ordinance
3. Maintain a system for the survey and inventory of historic properties
4. Provide for public participation in the local preservation program
5. Satisfactorily perform responsibilities delegated to it by the state

# ***BENEFITS OF BECOMING A CLG***

- **CREDIBILITY**

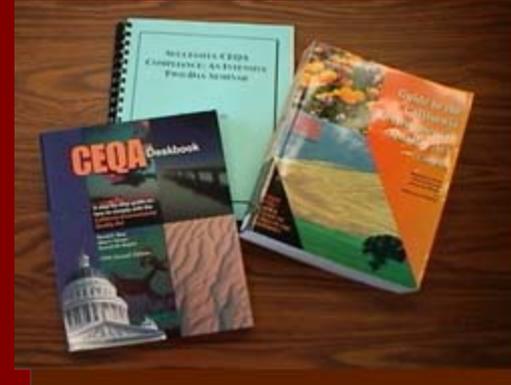
- Consistency with federal and state laws that have stood the test of time
- Insulates the preservation program from charges of being arbitrary and capricious
- Added value of prestige and cachet

# ***BENEFITS OF BECOMING A CLG***

- **TECHNICAL ASSISTANCE**
  - Access to CLG listserv hosted by SHPO
  - SHPO staff use listserv to forward information about training, publications, grants, etc.
  - Local governments use listserv to query other CLGs about issues, procedures, etc.

[calclg-l@ohp.parks.ca.gov](mailto:calclg-l@ohp.parks.ca.gov)

# ***BENEFITS OF BECOMING A CLG***



- **STREAMLINING**

- Use of National Register/California Register criteria and Secretary of the Interior's Standards integrates local, state, and federal levels of review
- Brings clarity to question of what resources are significant when it comes to CEQA
- Use of Secretary's Standards allows CEQA exemptions

# ***BENEFITS OF BECOMING A CLG***

- **INVOLVEMENT**

- Brings local preservation boards and commissions into broader land use planning and project approval processes



# ***BENEFITS OF BECOMING A CLG***

- **FUNDING**
  - Each state is required to pass through 10% of its annual Historic Preservation Fund grant from the NPS to CLGs to fund preservation activities
  - Maximum is \$25,000 (60% grant 40%match)



# ***BENEFITS OF BECOMING A CLG***

- **AUTONOMY**
  - OHP's role remains advisory
  - Neither the NPS or OHP have regulatory authority over local governments



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