

DIVISION 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0010

Definitions

1 As used in this division, unless the context requires otherwise:

2

3 * * *

4

5 (4) “Inventory” is a survey, map, or description of one or more resource sites that is prepared by
6 a local government, state or federal agency, private citizen, or other organization and that
7 includes information about the resource values and features associated with such sites. As a verb,
8 “inventory” means to collect, prepare, compile, or refine information about one or more resource
9 sites. (See resource list.)

10

11 * * *

12

13 (6) “Program” or “program to achieve the goal” is a plan or course of proceedings and action
14 either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as
15 part of the comprehensive plan and land use regulations (e.g., zoning standards, easements,
16 cluster developments, preferential assessments, or acquisition of land or development rights).

17

18 (7) “Protect,” when applied to an individual resource site, means to limit or prohibit uses that
19 conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-
20 0180, and 660-023-0190). When applied to a resource category, “protect” means to develop a
21 program consistent with this division.

22

23 * * *

24

25 (9) “Resource list” includes the description, maps, and other information about significant Goal 5
26 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive
27 plan or as a land use regulation. * * *

28

29 (10) “Resource site” or “site” is a particular area where resources are located. A site may consist
30 of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous
31 lots or parcels.

32

33 * * *

34

Additions **bold and underscored**

October 14, 2016A-1

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Changes from previous draft **highlighted**

October 18, 2016 draft

660-023-0200
Historic Resources

(1) For purposes of this rule, the following definitions apply:

(a) “Demolition” means the destruction or deconstruction of one-half or more of the ground floor square footage of a building unless a local government land use regulation includes a definition that is at least equally encompassing of destruction or deconstruction of a historic resource. Such local definition will replace this definition.

~~(a)~~**(b)** “Designation” is a decision by a local government declaring that a historic resource is “significant” and including the resource on the list of significant historic resources.

~~(b)~~ “Historic areas” are lands with buildings, structures, objects, sites, or districts that have local, regional, statewide, or national historic significance.

(c) “Historic context statement” is an element of a comprehensive plan that describes the important, broad economic, social, and cultural patterns impacting the physical development in a defined geographic area and identifies historic resources representative of the identified broad patterns. The document can serve as the foundation for local decisions about the significance of historic resources.

(d) “Historic preservation plan” is an element of a comprehensive plan that contains the local government’s goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.

~~(e)~~**(e)** “Historic resources” are those buildings, structures, objects, sites, or districts that **potentially** have a **significant** relationship to events or conditions of the human past.

~~(d)~~ “Historic resources of statewide significance” are buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved national register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

(f) “Locally significant historic resource” means buildings, structures, objects, sites, or districts included on a resource list.

(g) “National Register Resource” means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved National Register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

Additions **bold and underscored**

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1 (h) “Owner”:

2
3 (A) Means the owner of fee title to the property as shown in the deed records
4 of the county where the property is located; or

5
6 (B) Means the purchaser under a land sale contract, if there is a recorded
7 land sale contract in force for the property; or

8
9 (C) Means, if the property is owned by the trustee of a revocable trust, the
10 settlor of a revocable trust, except that when the trust becomes irrevocable
11 only the trustee is the owner; and

12
13 (D) Does not include individuals, partnerships, corporations or public
14 agencies holding easements or less than fee interests (including leaseholds) of
15 any nature.

16
17 ~~(e)(i)~~ “Protect” means to require local government review of applications for demolition,
18 ~~removal~~relocation, or major exterior alteration of a historic resource, or to delay
19 approval of, or deny, permits for these actions in order to provide opportunities for
20 restoration and continued preservation of historic resources, or both.

21
22 (2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.

23
24 (a) Local governments are not required to amend acknowledged plans or land use
25 regulations in order to provide new or amended inventories, resource lists or programs
26 regarding historic resources, except as specified in this rule section (8). Rather, local
27 Local governments are encouraged to adopt historic preservation regulations
28 regarding the demolition, ~~removal~~relocation, or major exterior alteration of all
29 designated historic resources.

30
31 (b) The requirements of the standard Goal 5 process (see in OAR 660-023-0030 through
32 660-023-0050), in conjunction with the requirements of this rule, apply when local
33 governments choose to amend acknowledged historic preservation plans and regulations.
34 However, the sequence of steps in the standard process is not recommended, as per
35 section (3) of this rule. The provisions in section (3) of this rule are advisory only.
36 Sections (4) through (9) of this rule are mandatory for all local governments, except
37 where the rule provides recommended or optional criteria.

38
39 (c) Local governments are not required to apply the ESEE process pursuant to
40 OAR 660-023-0040 in order to determine a program to protect historic resources.

1 (3) **Comprehensive Plan Contents.** Local comprehensive plans should foster and encourage the
2 preservation, management, and enhancement of **buildings**, structures, ~~resources, and objects,~~
3 **sites and districts** of historic significance within the jurisdiction in a manner conforming with,
4 but not limited by, the provisions of ORS 358.605. In developing local historic preservation
5 programs, local governments should follow the recommendations in the Secretary of the
6 Interior’s Standards and Guidelines for Archeology and Historic Preservation, **produced by the**
7 **National Park Service.** ~~Where possible, local~~ **Local** governments should develop a local
8 historic context statement and adopt a historic preservation plan and a historic preservation
9 ordinance before commencement of local historic inventories.

10
11 (4) **Inventorizing Historic Resources. When a local government chooses to inventory**
12 **historic resources, it must inventory historic resources pursuant to OAR 660-023-0030, this**
13 **section, and sections (5) through (7).** Local governments shall ~~shall~~ **must** provide broad public
14 notice prior to the collection of information about historic resources. ~~Local governments shall~~
15 **and** notify landowners about opportunities to participate in the inventory process. **Local**
16 **governments are encouraged to complete the inventory in a manner that satisfies the**
17 **requirements for such studies published by the Oregon State Historic Preservation Office**
18 **and that the inventory be provided to that office in a format compatible with the Oregon**
19 **Historic Sites Database.**

20
21 (5) **Determining Significance. When a local government chooses to inventory historic**
22 **resources, it must determine which resources on the inventory are significant pursuant to**
23 **OAR 660-023-0030(4) and this section.**

24
25 (a) Local governments may delegate the determination of **locally** significant historic sites
26 **resources** to a local planning commission or historic resources commission.

27
28 (b) The determination of significance should be based on the National Register Criteria
29 for Evaluation ~~or the Secretary of the Interior’s Standards for Evaluation,~~ **the historic**
30 **context statement and the historic preservation plan.** **Criteria may include, but are**
31 **not limited to, consideration of whether the resource has:**

32
33 (A) **Significant association with events that have made a significant**
34 **contribution to the broad patterns of local, regional, state, or national**
35 **history;**

36
37 (B) **Significant association with the lives of persons significant to local,**
38 **regional, state, or national history;**

39
40 (C) **Distinctive characteristics of a type, period, or method of construction, or**
41 **represents the work of a master, or possesses high artistic values, or**
42 **represents a significant and distinguishable entity whose components may**
43 **lack individual distinction;**
44

(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or

(E) Relevance within the local historic context and priorities described in the historic preservation plan.

~~(5)~~(6) Designation of Locally Significant Historic Resources. When a local government chooses to inventory historic resources, it must adopt or amend a resource list of those historic resources that were determined to be significant under section (5) (i.e., “designate” such resources) pursuant to OAR 660-023-0030(5) and this section.

~~(a) Local governments shall adopt or amend the list of significant historic resource sites (i.e., “designate” such sites).~~The resource list must be adopted or amended as a land use regulation. That is, the resource list is not an element of the comprehensive plan.

~~(b) Local governments shall~~must allow owners of inventoried historic resources to refuse historic resource designation at any time prior to adoption of the designation and ~~shall~~must not include a site on a resource list of significant historic resources if the owner of the property objects to its designation on the public record.

~~(6) The local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.~~

~~(7) Local governments are not required to apply the ESEF process in order to determine a program to protect historic resources. Rather, local governments are encouraged to adopt historic preservation regulations regarding the demolition, removal, or major exterior alteration of all designated historic resources.~~Historic Resource Protection Ordinances. Local governments must adopt land use regulations to protect locally significant historic resources. Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior.

~~(8) Local governments shall protect all historic resources of statewide significance through local historic protection regulations, regardless of whether these resources are “designated” in the local plan.~~National Register Resources must be considered significant under section (5). For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government must:

(a) [Option 1] Protect all National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations by requiring a 120-day [or other period] delay for demolition, relocation or major exterior alteration and require the owner of the National Register Resource to consider options to the proposed demolition, relocation, or major exterior modification.

Additions **bold and underscored**

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1 (a) [Option 2] Protect all National Register Resources, regardless of whether the
2 resources are designated in the local plan or land use regulations by requiring a 120-
3 day [or other period] delay for demolition, relocation or major exterior alteration
4 and require the owner of the National Register Resource to demonstrate a good-
5 faith effort to pursue options to the proposed demolition or relocation [plus guidance
6 on altering character-defining features facing a public right of way, not including
7 alleys]

8
9 (a) [Option 3] Option 1 or 2 plus provision for optional demolition and relocation
10 denial by local government subject to a specified process, and guidance on altering
11 character-defining features on the entirety of the building.

12
13 (b) Amend its land use regulations to protect National Register Resources in
14 conformity with subsection (a). Until such local regulations are adopted, subsection
15 (a) shall apply directly to National Register Resources.

16
17 (c) Apply additional local protection measures to resources listed after the effective
18 date of this rule only through a designation process pursuant to sections (4) through
19 (6). A local government may apply additional local protection measures to a district
20 listed in the National Register of Historic Places without a designation process under
21 sections (4) through (6) if the local government’s program to achieve Goal 5
22 pursuant to OAR 660-023-0050 was acknowledged prior to the effective date of this
23 rule and the program permitted implementation of protection measures to National
24 Register districts without a designation process.

25
26 (9) Removal of a historic resource from **an inventory of significant historic resources a**
27 **resource list** by a local government is subject to this section.

28
29 (a) A local government must remove a property from the resource list if the
30 designation was imposed on the property by the local government and the owner
31 requests that the local government remove it from the list. A designation was
32 imposed if, at the time of designation, the owner of the property was not provided
33 an opportunity to object to the historic designation as required by subsection (6)(b).

34
35 (b) A local government may remove a property from the **list of locally significant**
36 **historic resources resource list** only if the circumstances in (A), (B), (C), or (D) exist.

37
38 (A) The property has lost the physical qualities for which it was originally
39 recognized;

40
41 (B) Additional information shows that the property no longer satisfies the
42 criteria for recognition as a historic resource or did not satisfy the criteria
43 for recognition as a historic resource at time of listing;

1 (C) The value to the community of the proposed use of the property
2 outweighs the value of retaining the designated historic resource on the
3 present site and the property owner has made a reasonable effort to
4 rehabilitate, reuse, sell, and or relocate the property and has found that the
5 available alternatives are either not technically feasible or not economically
6 feasible.

7
8 (D) The local building official declares that the property poses a clear and
9 immediate hazard to public safety and must be demolished to abate the
10 unsafe condition.

11
12 ~~(9)~~**(10)** A local government shall not issue a permit for demolition, ~~or modification~~ **relocation,**
13 **or major exterior alteration** of a historic resource ~~described under subsection (6) of this rule~~
14 **proposed for removal from the ~~list of locally significant historic resources~~ resource list**
15 **under subsection (9)(a)** for at least 120 days from the date a property owner requests removal of
16 historic resource designation from the property.

17
18 **(11) OAR 660-023-0200(8)(a) is effective [upon filing of the rule with the Secretary of State]**
19 **or [on a specific date] and applies directly to local government permit decisions until the**
20 **local government has amended its land use regulations as required by OAR 660-023-**
21 **0200(5)(b).**

22
23 **(12) OAR 660-023-0200(10) is effective [upon filing of the rule with the Secretary of State]**
24 **or [on a specific date] and applies directly to local government permit decisions.**