

# PARKS AND RECREATION DEPARTMENT

## DIVISION 50

### HISTORIC PRESERVATION OFFICER

#### Procedural Rules

##### **736-050-0001**

##### **Authority, Purpose and Policy**

- (1) Authority: The authority for this rule is granted to the State Historic Preservation Officer in accordance with ORS 358.545.
- (2) Purpose: These rules clarify the statutory requirement for participation in the Special Assessment of Historic Property program as provided in ORS 358.480 to 358.565.
- (3) Policy: One of the goals of the State Historic Preservation Officer is to maintain, preserve and rehabilitate properties of Oregon historical significance through historic preservation incentive programs, thereby creating a positive partnership between the public good and private property that promotes economic development, tourism, energy and resource conservation, neighborhood, downtown, and rural revitalization, efficient use of public infrastructure, and civic pride in our shared historical and cultural foundations.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: HPO 2, f. & ef. 9-10-76

##### **736-050-0002 - Repeal**

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341(4)

Hist.: HPO 2, f. & ef. 9-10-76; PR 2-1992, f. & cert. ef. 5-1-92; PR 13-1994, f. & cert. ef. 12-5-94; PRD 9-2008, f. & cert. ef. 10-15-08

##### **736-050-0005 -Repeal**

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 183.341(1)

Hist.: HPO 1-1978, f. & ef. 4-26-78; PR 1-1984, f. & ef. 1-6-84; PR 4-1986, f. & ef. 4-

28-86; PR 4-1988, f. & cert. ef. 8-22-88; PR 2-1992, f. & cert. ef. 5-1-92; PR 13-1994, f. & cert. ef. 12-5-94; PR 1-1996, f. & cert. ef. 1-5-96; PRD 5-1998, f. & cert. ef. 4-15-98; PRD 2-2002, f. & cert. ef. 1-15-02

### **Special Assessment of Historic Property**

#### **736-050-0100**

#### **Special Assessment of Historic Property**

Oregon Revised Statutes 358.480 to 358.545 provide the process for applying for a special assessment of historic property.

Stat. Auth.: ORS 358

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02

#### **736-050-0105**

#### **Definitions**

As used in OAR 736-050-0100 through 736-050-0150, unless the context requires otherwise:

(1) "Continuing Qualification Review" means a review of a property special assessment by SHPO in response to a request by a county assessor, local landmark commission or governing body to determine if the property continues to qualify for a special assessment.

(2) "National Register" means the National Register of Historic Places maintained by the United States Department of the Interior.

(3) "Preservation Plan" is defined in ORS 358.480 (16).

(4) "SHPO" means the State Historic Preservation Officer appointed by the Governor pursuant to ORS 358.565 or the State Historic Preservation Office, depending on the context.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

#### **736-050-0110 - Repeal**

Stat. Auth.: ORS 358.485

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

### **736-050-0112**

#### **Requirement for Owner Expenditure**

Under ORS 358.487(2)(a) the 10% expenditure requirement can include the value of donated materials, labor and/or services, provided the SHPO is satisfied there is legitimate justification for the values claimed.

Stat. Auth.: ORS 358.487

Stats. Implemented: ORS 358.487

Hist.:

### **736-050-0115 - Repeal**

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.490 & 358.495

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

### **736-050-0120**

#### **Owner and SHPO Responsibilities**

(1) An owner of specially-assessed property is responsible for maintaining the property in good condition. Noticeable deterioration of a property, or a failure to complete rehabilitation or other work required in a Preservation Plan during the time period designated, unless otherwise amended, may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(2) An owner of specially assessed property is responsible for providing the SHPO with a current mailing address and other contact information.

(3) The SHPO shall monitor owner compliance with program requirements by requesting such information from owners as is directly related to matters set forth in ORS 358.475 to 358.545 or in these rules. If an owner does not respond to the request by providing the required information within the specified time, the SHPO may seek mandatory remedial action and/or initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(4) Participants who entered the program prior to September 28, 2009:

(a) Must submit Preservation Plan updates to the SHPO in the 5<sup>th</sup>, 10<sup>th</sup> and 14<sup>th</sup> year of the 15-year benefit period in lieu of the reporting schedule in ORS 358.543(1); and

(b) Are exempt from the requirement to submit a report by the end of the fifth year demonstrating compliance with the expenditure commitment under the Preservation Plan as described in ORS 358.487(2)(a).

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.575, 358.480, 358.535 & 358.545(1)

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 2-2007, f. & cert. ef. 2-8-07; PRD 3-2007, f. & cert. ef. 4-13-07

**736-050-0125**

### **Changes and Alterations to Properties Approved for Special Assessment**

(1) Pursuant to ORS 358.565, the SHPO delegates special assessment application and design review approval authority to the Deputy State Historic Preservation Officer (DSHPO). The DSHPO shall rely on the expertise of qualified staff in making program decisions.

(2) Owners shall apply in writing on forms provided by the SHPO or the governing body, whichever is appropriate, for review and written approval before undertaking any work on specially-assessed property.

(3) Additional material may include photos, drawings, as well as product and work descriptions.

(4) A change permissible in one circumstance does not necessarily constitute justification or a precedent for a similar change in another circumstance. The SHPO shall evaluate proposed changes on a case-by-case basis.

(5) Governing bodies approved by the SHPO for conducting historic reviews must have:

(a) A historic preservation ordinance or historic design guidelines based on the historic rehabilitation standards, as defined in ORS 358.480(12); and

(b) Demonstrated expertise interpreting and implementing the historic rehabilitation standards.

(6) Governing bodies shall address in their decision-making process, and in the written record of their decision, any recommendations provided to them by the SHPO as part of

its review, including justification for either accepting or rejecting those recommendations.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545(2)

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

### **736-050-0130 - Repeal**

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.543

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

### **736-050-0135**

#### **Removal of Special Assessments**

(1) The SHPO may investigate a property's continued qualification for special assessment by its own initiative or at the request of other parties as described in ORS 358.509.

SHPO may contact the property owner informally to determine the basic merits of the concerns.

(2) If changes to the property have been approved by the local governing body in accordance with ORS 358.543(4) and are part of the approved Preservation Plan, then SHPO cannot disqualify the property, and no further investigation will be pursued.

(3) If, in the opinion of SHPO, further investigation is warranted, SHPO shall contact the property owner in a timely manner by certified letter to request a report as authorized by ORS 358.535, and, if deemed appropriate, a site inspection. The letter shall include:

- (a) Property identification;
- (b) Reason for request of information;
- (c) Request for a detailed response; and
- (d) Information on appeal process.

(4) The property owner must submit a written report to SHPO within 30 days of receipt of the letter addressing all of the issues outlined in the letter. Failure to respond or to address all of the issues may be grounds for disqualification of the property from special assessment.

(5) SHPO shall respond to the property owner's report within 30 days with one of the following determinations:

(a) Continues to qualify;

(b) Continues to qualify with conditions (if the conditions are not met within the specified time, SHPO may initiate disqualification without further notice); or

(c) No longer qualifies.

(6) The determination by SHPO shall be in writing and shall be sent to the property owner, the county assessor, and the governing body.

(7) A property owner may appeal the SHPO determination to the Historic Assessment Review Committee (HARC) (ORS 358.511) in accordance with the appeal process described in OAR 736-050-0140.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.509, 358.515 & 358.525

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

#### **736-050-0140**

##### **Appeal Process**

(1) The Historic Assessment Review Committee (HARC) is the appeals body for all decisions made by the SHPO. The HARC will establish procedures for an appeal.

(2) An owner may appeal a ruling by requesting a contested case hearing pursuant to the provisions of ORS 183.413 to 183.425 and 183.440 to 183.470. An appeal must be filed no later than 30 calendar days after the date a decision is made by the HARC.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

#### **736-050-0150 - Repeal**

Stat. Auth.: ORS 358

Stats. Implemented: ORS 358.540

Hist.: PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06