

MEMORANDUM

DATE: February 25, 2015

TO: Richard Whitman, Natural Resources Policy Director, Governor's Office
Gabriella Goldfarb, Natural Resources Policy Advisor, Governor's Office

FROM: Ian Johnson, Associate Deputy State Historic Preservation Officer
Oregon Parks and Recreation Department (OPRD)

RE: Survey of Local Jurisdiction Historic Preservation Programs

At the request of Mr. Whitman for further information regarding local administration of the Goal 5 Oregon Administrative Rule (OAR) 660-023-0200 following a meeting on October 23, 2015, DLCD and the Oregon SHPO prepared a seventeen question survey. The survey sought to determine how many jurisdictions have historic preservation programs; how requests for demolition and removal from landmark lists are addressed; and what, if any, distinction jurisdictions make between properties listed in the National Register of Historic Places and those that are listed in local landmark registers.

Survey Design, Distribution, and Respondent Profile:

The survey was designed using the web-based free service, Survey Monkey, and distributed on Friday, January 8th. The survey remained open until Friday, January 29th. The Oregon SHPO distributed the survey directly to the agency's own list of Certified Local Governments (CLGs)¹ and all 36 counties using a list provided by DLCD. Local DLCD field representatives distributed the survey to individual cities.² In total, 76 unique responses were received, with 19 counties responding, including all 4 counties participating in the CLG program. Responding counties were generally concentrated along the coast and the I-5 and I-84 transportation corridors, but also included Deschutes, Crook, Klamath, and Lake Counties. Fifty-nine cities responded, with most concentrated along the length of the I-5 corridor, and, to a lesser extent, along the coast. Twenty-two of the responding cities participate in the CLG program. No county or city responses were received from Josephine, Jefferson, Wheeler, Grant, Wallowa, Harney, or Malheur Counties, and, most notably, Multnomah County.

The survey allowed users to skip questions that did not apply. Generally, each question received about 40 or more responses. The percentages given below are rounded to whole numbers and reflect actual responses to the question and not a percentage of the total number of respondents. General comments provided in this memo are informed by the narrative responses to each question provided by the survey participants. Respondents include both small and large communities from across the state, with and without preservation programs, and in both rural and urban settings. While not comprehensive, the survey is reasonably representative for discussion purposes. Aggregate data and individual responses from the survey are appended to this document.

¹ The Certified Local Government Program is a partnership between the National Park Service, OR SHPO, and local jurisdictions that provides pass through grants for communities that have established historic preservation programs that meet minimum federal standards.

² Due to an oversight, the survey was not sent to cities and counties in DLCD's NE region.

Survey Results:

The first two questions of the survey established if the jurisdiction had a preservation program, and, if so, what body was responsible for its administration. The majority of the respondents 87% indicated that they did have a Goal 5 historic resource element in their comprehensive plan and/or a local preservation ordinance that provided some level of protection for historic resources. Comments indicated that the process for adding properties to the local landmark register and the protections afforded these properties varied. In most cases, the city council or county commission and/or planning commission were charged with administering the preservation program. In 22 jurisdictions, 29% of the respondents, indicated that a quasi-judicial landmarks commission fulfilled this role, and 14 communities, or 18%, reported that an advisory body served this function.

The second series of questions focused on how jurisdictions applied the Goal 5 OAR as it relates to the protection of properties listed in the National Register of Historic Places. Because listing in the National Register is federal process, questions in this section focused on how jurisdictions treated these properties following listing. In general, it appears interpretation and application of the Goal 5 OAR varies widely.

The majority, 66%, of the communities indicated that they add individual properties listed in the National Register to their local landmark lists. Asked the same question about districts, the majority stated that they did not add districts; however, the comments received appear to indicate that many perceived this question as asking if their jurisdiction had established districts already. When adding National Register properties to the local landmark register, 52% of the 60 respondents answering the question noted that an official adoption process was used, while only 18% did so “automatically” without a “formal adoption process.” This trend was also true in the case of historic districts. National Register properties are generally protected by demolition delay, with 53% of jurisdictions having the authority to delay demolition for some period of time up to 120 days and 10% able to deny demolition beyond 120 days. However, only 46% had the authority to deny demolition.

Of the respondents, 34% do not add properties listed in the National Register to their Goal 5 inventory or a local landmark list, and only 3 respondents indicated that separate review criteria applied to National Register-listed properties not on the landmarks list. Compliance with the intent of the Goal 5 OAR to protect all properties listed in the National Register is likely even lower when considering that several jurisdictions noted that although they do have a local process to add properties listed in the National Register to their local landmark list that this only occurs when the property owner initiates the process. Of those communities implementing the Goal 5 OAR, the level of protection offered also varies widely.

The third series of questions focused on the addition of properties to the local landmark register. Given that local jurisdiction have full control over this process, the questions asked about designation and removal of locally-listed properties, as well as protective measures. When asked if the adoption process for adding resources to the local landmark register considered other land use and planning priorities not related to preservation concerns, 53% of those answering the questions said yes, while 47% said no. Owner consent is required for listing a property in a Goal 5 inventory or local landmark register under ORS 197.772. For this purpose, the overwhelming

majority indicated “owner” was not defined in their code, but was generally understood as the entity listed in the County records as “owner,” most often those with a fee-simple interest in the property.

When asked about protecting locally-listed properties, a slightly higher percentage of respondents reported they had the authority to delay or deny demolition of a property listed in the local landmark register compared to those listed only in the National Register. While properties listed in the National Register may only be removed through a federal process, properties listed in a local landmark register may be removed from the register subject to applicable Goal 5 processes. When answering how removal is accomplished, 38% of the 40 respondents answering the question noted that an owner would need to meet specific criteria, not including the owner’s own personal wishes; 30% stated that a property could only be removed in “narrow circumstances” in cases where the resource had “been damaged, destroyed, or was mistakenly or incorrectly added to the local landmark register;” and 33% indicated that an owner could remove their property from the local landmark register “for any reason.”

Conclusion:

Although the survey results are not comprehensive, the number and variety of respondents are generally representative, including cities and counties from around the state in both urban and rural areas. The results show a varied understanding and application of the Goal 5 OAR and an inconsistent approach to the treatment of properties listed in the National Register.