

Oregon State Parks and Recreation Commission

June 18, 2025

Agenda Item: 9c

Action

Public Comment Allowed: Yes

Topic: Request to open rulemaking –736- 50-0001 to 50-0140 Special Assessment of Historic Properties

Presented by: Katie Gauthier, Government Relations Manager, Joy Sears, Restoration Specialist and Matt Rippee, Deputy Director of Field and Community Services

Background:

The Special Assessment of Historic Properties program offers a 10-year property tax exemption for properties listed in the federal National Register of Historic Places. This is currently the only state historic preservation tax incentive program. The program began in 1975 as the nation's first state-level historic preservation tax incentive, has adjusted and evolved since then to deal with changing laws and political realities.

The state program closed to new applicants beginning July 1, 2024. Existing participants were allowed to continue participation in the program through the length of their term. The program was limited to properties listed on the National Register of Historic Places. Qualified property was specially assessed for 10 years, contingent upon execution of a preservation plan, and could have qualified for a consecutive second 10-year term if the preservation plan included significant investment in seismic upgrades, energy conservation, or disability access.

The ~~Oregon Legislature passed~~[Governor signed into law](#) House Bill 3190 [on May 28th](#), which reauthorizes the program as a 10-year benefit for commercial, income-producing historic properties. This bill is similar to agency introduced legislation from 2021 that was not enacted. In addition to limiting eligible properties to improved real property used or held to produce income, the bill allows eligible property to have an unlimited number of consecutive or non-consecutive 10-year special assessment terms. HB 3190 sunsets the part of the program allowing for a consecutive second 10-year term on July 1, 2031, for properties enrolled under earlier versions of the program.

To respond to program changes in the legislation, staff request permission to open rules that guide program administration. The rulemaking is necessary to address areas not explicitly covered in statute and ensure the rules are in place before the application period opening on November 1, 2025. Revisions and additions include accurate definitions in alignment with existing federal state law Revisions and additions include accurate definitions aligned with existing federal and state laws and rules, a new section describing the application process, clearer owner and agency responsibilities, and explicit procedures for altering properties enrolled in the program and removing properties from the program for cause. The revised rule changes the

appeals process for newly enrolled properties to a contested case process. Properties enrolled under earlier versions of the program continue to appeal staff decisions to the Historic Review Assessment Committee (HARC). House Bill 3190 allows the agency to set an application fee, previously established in law. The revised rule sets a program fee of one-third of one percent of the property's real market value.

The current draft rules are based on the text of HB 3190. Agency staff sought comment on draft rules from interested groups and individuals. Contacted parties include the Oregon Department of Revenue, all 36 county assessors, current HARC members, the League of Oregon Cities, the Association of Oregon Counties, over 200 communities participating in the Oregon Main Street program or the federal Certified Local Government program, and nonprofit advocacy groups including Restore Oregon, the Architectural Heritage Center, and the Lower Columbia Preservation Society. Outreach also included professional organizations such as the Oregon State Chamber of Commerce, Oregon Realtors, Oregon Home Builders Association, and the Oregon Small Business Association. ORPD requested comments through the Oregon Heritage News email newsletter and mailed notice to each of the nine federally recognized Tribes in Oregon and requested comment.

If approved to open rulemaking, staff anticipate opening official public comment period beginning July 1, 2025, and will include a virtual public hearing to allow for verbal comment in addition to written comments.

Prior Action by Commission: April 2020 approved agency legislative concept to extend special assessment program to only commercial properties.

Action Requested: Approval to open rulemaking on OAR 736-050-0001 to 736-050-0140 to update special assessment of historic properties rules after passage of HB 3190.

Attachments:

Attachment A –proposed amendments- marked copy

Prepared by: Katie Gauthier, Government Relations Manager

9c Attachment A: Marked Copy

Division 50

HISTORIC PRESERVATION OFFICER

736-050-0001 (Revised)

Procedural Rules: 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 358.545.

(3) Policy: ~~One of the~~The goals of the State Historic Preservation Officer is to maintain, preserve and rehabilitate historic properties ~~of Oregon historical significance~~ through historic preservation incentive programs, ~~thereby creating a positive partnership between the~~ that foster public good and private property that promotes partnerships to preserve Oregon's shared cultural heritage for the benefit and education of the public, and to promote economic development, and tourism, energy and community revitalization, resource conservation, ~~neighborhood, downtown, and rural revitalization~~, efficient use of public infrastructure efficiency, and ~~civic pride in our shared historical and cultural foundations~~ sustainability.

736-050-0100 (Revised)

Special Assessment of Historic Property

(1) ORS 358.480 to 358.545 ~~provide~~provides the process for applying for a special assessment of historic property.

736-050-0105 (Revised)

Definitions

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

(1) "Continuing Qualification Review" means a review of a ~~property~~historic property's special assessment by the SHPO on its own initiative or 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"~~

(2) "Certified Local Government" (CLG) means, a local government certified by the National Park Service under 36 CFR § 61.6 (2020) to carry out responsibilities under the Act and by the Oregon SHPO as meeting state requirements identified in the Oregon State Historic Preservation Office Certified Local Government Program Local Government Participation Procedures (2001), approved by the United States Department of the Interior, National Park Service.

(3) "Commercial Property" has the meaning provided in ORS 358.480(1).

(4) "National Register" means the National Register of Historic Places maintained by the United States Department of the Interior and administered by the National Park Service, which is the national list of historic properties significant in American history, architecture, archaeology, engineering, and culture.

⌘

(5) "National Register nomination form" has the meaning provided in 36 CFR § 60.3(i) (2020).

(6) "Owner" has the meaning provided in ORS 358.480(7).

(7) "Preservation Plan" is defined has the meaning provided in in ORS 358.480(16)((10).

(4) "

(8) "Oregon State Historic Preservation Office" (Oregon SHPO) means the an office of the Oregon Parks and Recreation Department.

(9) "State Historic Preservation Officer-appointed by the Governor pursuant" (SHPO) means the Director of the Oregon Parks and Recreation Department and the State Historic Preservation Officer defined in ORS 358.565.

736-050-0111 (New Section)

Application for the Special Assessment of Historic Property Program (

(1) ORS 358.480 to ORS 358.565 or the State Historic Preservation Office, depending on the context 358.545 provides the process for applying for a special assessment of historic property.

(2) The Oregon SHPO will accept applications for the Special Assessment of Historic Properties program from November 1 of the year prior to the tax year in which the property will be specially assessed, through the last day of February of the effective tax year.

(3) An owner of historic property granted historic property special assessment may reapply for another term of special assessment. Subsequent, terms are unlimited and may be consecutive.

(4) The Oregon SHPO will process an application for classification and assessment under ORS 358.480 to 358.545 when it receives a nonrefundable fee equal to one-third of one percent of the property's real market value as of the assessment date for the application year during the application period defined in subsection 2 of section, Application for the Special Assessment of Historic Property Program [Insert OAR Number].

736-050-0112

(Revised) Requirement for Owner Expenditure

(1) Under ORS 358.487(2)(a))(A), the 10 percent expenditure requirement can may include the market value of donated materials, labor and/or services, provided and professional labor.

Nonprofessional volunteer labor may also be included and must be valued at the state minimum wage.

(2) Documentation must be submitted to the Oregon SHPO to demonstrate that the 10 percent expenditure requirement is satisfied there is legitimate justification met, including the date, description, and provider details (name, address, and contact information) for the values claimed all materials, services, and labor. The documentation must demonstrate compliance with the Preservation Plan.

736-050-0120 (Revised)

Owner and SHPO Responsibilities

(1) An owner of specially-assessed historic property ~~is responsible for maintaining~~ must maintain the property in good condition. ~~Noticeable, being structurally stable, weathertight, protected from 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, secured from unauthorized entry, and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135, in compliance with state and local building codes and ordinances.~~

(2) An owner of specially assessed historic property is responsible for providing the Oregon SHPO with ~~a the names of contact persons,~~ current mailing ~~address~~ addresses and ~~other~~ contact information, including email addresses and phone numbers.

~~(3)~~

(3) An owner of specially assessed historic property must obtain and maintain the property insurance required under ORS 358.487 (2)(d).

(4) 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 this division. 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 Removal of Historic Property from the Special Assessment for Historic Property Program, OAR 736-050-0135.

~~(4)~~

(5) Participants who entered the program prior to ~~September 28, 2009~~: [Insert date 90 calendar days from enactment]:

(a) Must submit Preservation Plan updates to the SHPO in the ~~5th, 10th~~ 3rd, 6th and ~~14th~~ 9th year of the ~~15~~ 10-year benefit period in lieu of the reporting schedule in ORS 358.500(1); and

(b) Are exempt from the requirement to submit a report by the end of the ~~fifth~~ 5th year demonstrating compliance with the expenditure commitment under the Preservation Plan as described in ORS 358.487(2)(a).

736-050-0125 (Revised)

Changes and Alterations to Properties Approved for Special Assessment

- (1) ~~Pursuant to ORS 358.565, the~~ The SHPO ~~delegates special assessment application and design review approval authority to the Deputy State Historic Preservation Officer (DSHPO). The DSHPO shall~~will 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.~~
- (2)
- (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~~resource review must ~~have~~:
- (a) ~~A~~Have a historic preservation ordinance or adopted historic design guidelines based on the historic rehabilitation standards, as defined in ORS 358.480(~~425~~); and
- (b) ~~Demonstrated~~Demonstrate expertise interpreting and implementing the historic rehabilitation standards for preservation, restoration, rehabilitation, and reconstruction, and maintained by the United States Secretary of the Interior, National Park Service.
- (3) An owner must apply in writing on forms provided by the Oregon SHPO and the governing body for review and receive from the Oregon SHPO and governing body written approval before undertaking any work on specially assessed historic property.
- (4) The owner must provide additional material as required by the Oregon SHPO and the governing body, including photos, drawings, product and work descriptions, and any other necessary materials for the administration of the Special Assessment of Historic Properties Program.
- (5) A change to the Preservation Plan that is allowed in one instance does not automatically justify or set a precedent for similar changes in other cases. The SHPO and governing body evaluates each proposed change on a case-by-case basis, considering the property's character-defining features as they relate to its historic significance described in the National Register nomination form. If a nomination form is unavailable or lacks sufficient detail the SHPO will define the property's character-defining features.
- (6) Governing bodies shall address in~~must~~ provide the SHPO with a 14-day comment period and document in writing their decision-making process, and in the written record of their decision, any including the SHPO's recommendations provided to them by the SHPO as part of

~~its review, including, with~~ justification for ~~either~~ accepting or rejecting ~~these~~ ~~recommendations~~ ~~them~~. The SHPO's comments must be included in the public record.

(7) The governing body's approval under subsection (6) of this section, Changes and Alterations to Properties Approved for Special Assessment [Insert OAR Number] is invalid if it fails to comply with local ordinances or state land-use laws, or the governing body does not provide the SHPO an opportunity to comment or does not consider and respond to the SHPO's comments as required in subsection (6).

736-050-0135

Removal of ~~Historic Property from the~~ Special ~~Assessments~~ Assessment for Historic Property Program (Revised)

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

(2) The SHPO ~~may~~ will contact the property owner ~~informally~~ to determine the ~~basic~~ merits of the concerns.

~~(2)~~

(3) If changes to the property have been approved by the local governing body in accordance with ORS 358.500(4) and are part of the approved Preservation Plan, then the SHPO cannot disqualify the property, and no further investigation will be pursued. The SHPO may remove a historic property when the governing body does not meet the provisions of Changes and Alterations to Properties Approved for Special Assessment, OAR 736-050-0125 (6) and (7).

~~(3)~~ (4) If, ~~in the opinion of~~ SHPO, ~~believes that~~ further investigation is warranted, the SHPO ~~shall~~ will contact the ~~property~~ owner ~~in a timely manner~~ by certified letter ~~to~~ and request a report as authorized by ORS 358.500(3), and, if deemed appropriate, a site inspection. The letter ~~shall~~ must include:

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

~~(4)~~

(5) The property owner must submit a written ~~report~~ response to the SHPO within 30 days of ~~receipt of~~ receiving the letter, addressing all ~~of the identified~~ issues ~~outlined in the letter.~~ Failure to respond or ~~to~~ fully address ~~all of the~~ issues may ~~be grounds for result in~~ disqualification ~~of the property from special assessment~~ the Special Assessment for Historic Properties Program.

~~(5)~~

(6) The SHPO shall respond to the property owner's report in writing within 30 calendar days with one of the following determinations:

~~(a) Continues to qualify;~~

~~(a) The historic property continues to qualify for participation in the Special Assessment for Historic Properties Program; or~~

~~(b) Continues~~The historic property continues to qualify for participation in the Special Assessment for Historic Properties Program with conditions ~~(; or~~

~~(c) The historic property no longer qualifies for participation in the Special Assessment for Historic Properties Program.~~

~~(7) When applying conditions for continued participation in the Special Assessment for Historic Properties program, the SHPO will define the conditions and how the owner must demonstrate how they are met and specify a date not less than 90 days from the date of the SHPO's written response to the owner's report that the conditions must be met. The SHPO may remove the historic property from the Special Assessment for Historic Properties program without further notice if the conditions are not met within by the specified time, SHPO may initiate disqualification without further notice); or date.~~

~~(e) No longer qualifies.~~

~~(6~~

~~(8) 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~~

~~(9) The SHPO may remove a historic property owner may appeal from the SHPO determination to the Historic Special Assessment Review Committee (HARC) (ORS 358.511) in accordance with the appeal process for Historic Properties Program when:~~

~~(a) The historic property becomes disqualified for classification and special assessment as described in ORS 358.515(1)(a-k); or~~

~~(b) Alterations to the historic property result in the historic property losing the characteristics that made it eligible for listing in the National Register of Historic Places. Upon removal of the historic property from the National Register of Historic Places the historic property will no longer be eligible for participation in the Special Assessment of Historic Properties Program and the SHPO will remove the property from the program.~~

~~(c) Noticeable deterioration of a property or failure to maintain the property in good condition as described in Owner and SHPO Responsibilities, OAR 736-050-0140-0120(1); or~~

~~(d) Failure to complete rehabilitation or other work required in a Preservation Plan during the time period designated, unless otherwise amended; or~~

(d) An owner does not respond to requests from the SHPO for additional information related to the administration of the Special Assessment for Historic Properties Program by providing the required information within the specified time.

736-050-0140

Appeal Process (Revised)

~~(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 under the provisions of ORS 183.411 to 183.425 and 183.440 to 183.470. A contested case hearing request must be filed no later than 30 calendar days after the date a decision is served by the HARC. 358.495(5).~~