

# ARCHAEOLOGY BULLETIN

RECOMMENDATIONS FROM THE OREGON STATE HISTORIC PRESERVATION OFFICE

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## ARCHAEOLOGICAL SITES ON PUBLIC LANDS

DECEMBER 2014

People have lived in Oregon for at least 14,000 years. Evidence of past human occupation exists, in part, within archaeological sites. Archaeological sites may consist of the remains of a 3,500 year-old village, trail ruts from the Oregon Trail or an early 1900s homestead. All archaeological sites contribute to the physical record of the history of Oregon from the earliest inhabitants to the recent past. The following information is intended to provide assistance with understanding state laws, what to do if an archaeological site is found or known to exist on public land, and how to actively preserve and protect archaeological sites on public land from unnecessary damage or alterations. Public land is defined as any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

### **What is an archaeological site?**

In Oregon, an archaeological site is defined as any location with physical remains of past human activity that is at least 75 years old that contains a minimum of ten artifacts or a feature. Physical remains may include artifacts, such as stone tools (e.g., arrowheads, pestles, mortars), chipped stone flakes from a tool stone such as obsidian, peeled trees, rock art, shell heaps or middens, wagon ruts, old cans, bottles, bricks, metal debris, domestic debris and foundations from historic Euro-American use, or shipwrecks. The relationship or context of artifacts within an archaeological site can provide significant information on prehistoric or historic activities. The Oregon State Historic Preservation Office (Oregon SHPO) maintains a master record set of archaeological sites in Oregon.

### **Laws:**

Under Oregon State Law ([ORS 97.740](#), [ORS 358.905-358.961](#), [ORS 390.235](#), [OAR 736-051-0090](#)) *significant* archaeological sites are protected on all non-federal public lands. Significance is based on the potential of an archaeological site to be eligible for inclusion on the [National Register of Historic Places](#), which means the site possesses important archaeological information on a local, regional or national level. In Oregon, archaeological sites are considered significant until their eligibility can be evaluated. Under state law, unlawful damage to archaeological sites is a Class B Misdemeanor. Disturbance of Native American human remains or associated funerary objects is considered a Class C Felony with penalties up to a \$10,000 fine.

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### **Stewardship:**

Archaeological sites on public land are an intrinsic part of the cultural heritage of the people of Oregon. As such, archaeological sites and their contents located on public land are under the

stewardship of the people of Oregon to be protected and managed in perpetuity by the state as a public trust. Under state law (ORS 358.910) the cultural heritage of the state, as embodied in archaeological objects and sites that are of archaeological significance, are to be preserved and protected. All artifacts recovered from a site on public lands, except for Native American human remains, burials, associated funerary objects, sacred objects and objects of cultural patrimony (which are under the stewardship of the tribes per [ORS 97.740](#)), are under the stewardship of the state and shall be delivered to the Oregon State Museum of Anthropology, now known as the University of Oregon Museum of Natural and Cultural History (UOMNCH).

### What happens when an archaeological site is on public land?

If an archaeological site is on public land, it should be avoided. If avoidance is not possible and the site will be impacted as a result of a proposed activity (e.g., construction [buildings, access routes, irrigation], dumping, trampling), it will need to be evaluated (recorded and studied by a professional archaeologist) for significance under a state-issued archaeological permit before the activity can begin. If the site is determined not significant by a professional archaeologist, with concurrence from the Oregon SHPO, the proposed activity can occur without further archaeological research. If the site is found to be significant, steps will need to be taken to minimize and/or mitigate the damage resulting from the proposed activity. Such mitigation may require additional testing and data recovery under a separate state archaeology permit. At the conclusion of any archaeological excavation, all artifacts remain public property, and need to be delivered to UOMNCH. Alternative curation locations (e.g., tribal or local museum) are possible with written approval of UOMNCH.

### How do public entities protect archaeological sites on public land?

An easy option for protecting archaeological sites on public land is to avoid them altogether. However, in order to avoid an archaeological site it is first important

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to know where they are located. Cultural resource surveys are encouraged on public lands in areas of high probability in order to identify if and where sites are located. In order to determine where high probability lands may exist on your property, contact the Oregon SHPO. Following the identification of an archaeological site, if ongoing or planned use of your land will not impact the site, the act of avoidance will afford some protection. In addition to avoidance, alerting those staff that manages the lands surrounding the site will help to insure that the site will not be damaged accidentally.



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