

Oregon Revised Statute 358.653

Protection of Publicly Owned Historic Properties

Fact Sheet

“Any state agency or political subdivision responsible for real property of historic significance in consultation with the State Historic Preservation Officer shall institute a program to conserve the property and assure that such property shall not be inadvertently transferred, sold, demolished, substantially altered or allowed to deteriorate.” [ORS 358.653\(1\)](#)

Summary of ORS 358.653

Oregon Revised Statute (ORS) 358.653, quoted above, is a state law that requires state agencies and political subdivisions of the state (public entities) to conserve “historic properties” and consult with the State Historic Preservation Office (SHPO) to, whenever possible, avoid and minimize negative impacts as a result of project actions. The public entity leads and retains full responsibility for the consultation process and final decision.

- “Political subdivisions” include but are not limited to counties, cities, universities, schools, fire districts, irrigation districts, hospital districts, and local taxing districts.
- The law applies to “real property” owned by the public entity. Buildings and structures are the majority of such properties, though the law also applies to objects and other resources in the project area. These include, but are not limited to, irrigation canals, parks, and monuments.
 - Archaeological sites are subject to additional state and federal laws. If your project involves digging, visit the [SHPO’s archaeological services info page](#).

What qualifies as a “historic property?”

A “historic property” is eligible for listing or is already listed in the National Register of Historic Places (National Register). The National Register is maintained by the National Park Service (NPS) and includes buildings, structures, sites, objects, and districts important to local, state, or national history. In general, historic properties are at least 50 years old, retain most of their historic appearance, and meet at least one of the four “criteria for significance.” For more information on the National Register criteria, visit the [SHPO National Register webpage](#). The [Oregon Historic Sites Database](#) includes all listed properties and previously recorded properties in Oregon. Not every historic property has been recorded or is in this database so consultation is important. Information regarding archaeological sites is confidential. For more information regarding archaeological sites within the project area, visit [SHPO’s archaeological services info page](#).

What types of projects require review under the law?

The public entity should consult with the Oregon SHPO on any project involving property that, at the time of project completion, is 50 years or older and/or listed in or eligible for listing in the National Register. Oregon SHPO can help to determine if the property is historic. Consultants who meet the Secretary of Interior’s Standards for architectural history, historic preservation, or history can also help public entities to determine if their property is historic.

To administer this state law, the Oregon SHPO follows a streamlined version of Section 106 of the National Historic Preservation Act of 1966, as amended (implementing regulations 36 CFR 800), a federal law that considers impacts on historic properties for federal projects. In cases where federal funds, permits, licenses, or land are involved, ORS 358.653 is superseded by Section 106 and the federal agency will consult with the Oregon SHPO.

How does SHPO consultation work?

Consultation is easy and can be accomplished without unnecessary project delays if started early during planning and development. While the public entity is responsible for consultation, the Oregon SHPO recommends the following process:

1. Determine if the real property will be 50 years old or older *by the time of project completion*. If yes, proceed to steps below. If no, then no further action is needed.

Properties younger than 50 years may be eligible if they have extraordinary significance, characteristics, or historical associations, such as the first of a particular architectural style or the site of an exceptional historic event. Contact the Oregon SHPO for guidance.

2. Gather the necessary materials (historic information, summary of alterations, historic and current photos, maps, etc.) and complete an Oregon SHPO Clearance Form (available on the [Review & Compliance page](#) of the SHPO website). Complete the form and determine if the property is listed in or is eligible for listing in the National Register.
3. If the property is historic, determine if the proposed project will negatively affect the historic characteristics of the property. Refer to the [Secretary of Interior's Standards](#), [NPS Preservation Briefs](#), and/or hire a consultant who meets the Secretary of Interior's Standards for architectural history, historic preservation, or history.
4. Submit all materials to the SHPO using the [Go Digital process](#), the electronic submission process for all projects needing SHPO review. The review process takes up to 30 calendar days and will conclude in one of three ways:
 - If the public entity believes the property is not historic and SHPO agrees, or if the public entity believes the property is historic but that the project will not have negative impacts and SHPO agrees, SHPO will provide written correspondence stating their agreement. This ends the process. Local regulations may still apply.
 - If the public entity believes the project will negatively impact the historic property and SHPO agrees, or if the public entity believes there will not be negative impacts and SHPO disagrees, the public entity should seek options to avoid negative impacts. Relatively minor changes can often eliminate negative impacts, preserve the historic property, and avoid mitigation commitments. The SHPO can provide technical resources and historic preservation best practices.
 - If negative impacts cannot be avoided, appropriate mitigation is captured in a Memorandum of Agreement (MOA). Mitigation is determined by the public entity, SHPO, and other consulting parties. Mitigation can take many forms, including but not limited to: documentation, interpretation, public education, protective covenants, or other historic preservation work that provides a public benefit. Please visit the [Oregon SHPO webpage for examples of successful mitigation projects](#).

The SHPO will provide a template MOA for the public entity to complete. SHPO strongly recommends the public entity conduct community outreach and consult with interested parties on the project's impacts to historic properties. These groups include tribes, [Restore Oregon](#) (the statewide preservation non-profit organization), local historic preservation commissions, local historical groups, and members of the public. SHPO can help identify consulting parties, but the public entity is responsible for inviting them to participate and addressing their comments. While neither the public entity nor SHPO must sign the MOA if an agreement cannot be reached, the public entity is responsible for the final decision and documenting the consultation process.

What about local review requirements?

If the historic property is a locally listed landmark or listed in the National Register, it typically falls under the purview of a local landmarks review board. Contact the local planning department to determine if the property is subject to local review.

Additional questions?

Please visit the [Oregon SHPO webpage](#) for forms, guidance documents, and contact information.