

373 HISTORIC AND CULTURAL RESOURCE OVERLAY DISTRICT

373-1 Intent and Purpose

The intent and purpose of this Overlay District is to promote the public health, safety and general welfare by providing for the identification, protection, enhancement, perpetuation and use of sites, structures, objects, buildings and historic districts within the County that reflect special elements of the County's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social and other cultural heritage and to facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas in order to:

- 373-1.1 Safeguard the County's heritage as embodied and reflected in such resources;
- 373-1.2 Encourage public knowledge, understanding and appreciation of the County's history and culture;
- 373-1.3 Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- 373-1.4 Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the County;
- 373-1.5 Preserve diverse and harmonious architectural styles reflecting phases of the County's history; and encourage complimentary design and construction areas impacting cultural resources;
- 373-1.6 Enhance property values and increase economic and financial benefits to the County and its inhabitants;
- 373-1.7 Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and
- 373-1.8 Integrate the management of cultural resources and relevant data into public and private land management and development processes.

373-2 Definitions

As used in this section, the words listed below have the following meaning:

- 373-2.1 Building A house, barn, church, hotel, or similar construction that is created to shelter any form of human activity. Building may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.
- 373-2.2 District A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
- 373-2.3 Object The term object is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is

associated with a specific setting or environment, such as statuary in a designed landscape. Examples: sculpture, monuments, mileposts, boundary markers, statuary, and fountains.

- 373-2.4 Rehabilitation A term often used interchangeably with renovation, involves modification or change to an existing building. Rehabilitation extends the useful life or utility of the building through repairs or alterations, sometimes major, while the features of the building that contributed to its architectural, cultural or historical character are preserved.
- 373-2.5 Restoration Often prefaced by “historical” or “architectural”, restoration involves the careful and meticulous return of a building, usually on its original site, to its appearance at a particular period of time by removal of later work or replacement of missing earlier work.
- 373-2.6 Site The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing structure.
- 373-2.7 Structure The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating shelter.

373-3 Review Authority

The review of applications identified in this Section (373) shall be consistent with the procedure type specified.

373-4 Resource Designation Procedures

- 373-4.1 The Historic and Cultural Resource Overlay District shall be applied to specific resources through a Plan Amendment process (Type III or Type IV). Consistent with provisions in the Comprehensive Framework Plan for the Urban Area and the Rural/Natural Resource Plan, the owner of a property which is the site of a cultural resource, or the Board, Planning Commission or Director, may initiate a quasi-judicial (Type III) plan amendment to apply the Overlay District. Any individual may request application of the Overlay District through a legislative (Type IV) process.
- 373-4.2 The Review Authority shall apply the Historic and Cultural Resource Overlay District to all buildings and structures in the Washington County Cultural Resources Inventory, consistent with the recommended program decisions of the “Goal 5 Conflicts and Consequences Analysis (ESEE) for Cultural Resources,” which is an appendix to the Cultural Resources Inventory. However, the Review Authority or the Appeal Authority may choose not to apply the Historic and Cultural Resource Overlay District based on compelling evidence and findings submitted by the property owner. The evidence and findings shall include a site-specific analysis of the economic, social, environmental and energy (ESEE) consequences of allowing a proposed conflicting activity (e.g., relocation or demolition) versus preservation of the resource. Economic burden may be a basis for a decision not to apply the Overlay District after consideration is given to all the ESEE consequences of application of the Overlay District versus allowing the proposed conflicting activity. The degree of economic burden will be weighed against the significance of the resource. The

availability of alternatives which retain historic values and encourage continued use or adaptive reuse of the property will be considered.

- 373-4.3 In order for the Review Authority or the Appeal Authority to determine that an economic burden will be placed on the owner of a resource if the Overlay District is applied to it, the owner must demonstrate that one of the following would occur. Where an estimate or opinion is called for from an expert or a professional in a given field (such as real estate, architecture, historic preservation or development), the expert or professional consulted shall be mutually acceptable to the owner and the Director.
- A. The continued presence of a resource on a property would significantly reduce the value of the property relative to its value if the resource was to be removed or demolished. To demonstrate this, the property owner shall submit the following evidence:
- (1) The most recent assessed value of the subject property.
 - (2) Two independent appraisals, by licensed appraisers, of the property's present value with the resource on site, and the property's value with the resource removed.
- B. Carrying costs (including property taxes, insurance and maintenance) for the property would be significantly higher with the continued presence of the resource than if it is removed from a property or demolished, and it is not likely that sufficient income could be derived from the resource in its present condition or after it is rehabilitated within the constraints of the district, to compensate for the higher costs. To demonstrate this, the property owner shall submit the following evidence:
- (1) The information specified in Sections 373-4.3 A. (1) and (2).
 - (2) Records or at least two (2) estimates by insurance brokers of the cost of insuring the resource.
 - (3) If rehabilitation is necessary, at least two (2) estimates of the cost of rehabilitating the resource by contractors experienced in the rehabilitation of historic resources.
 - (4) If rehabilitation is necessary, at least two (2) estimates of the cost of maintaining the resource after its rehabilitation by contractors experienced in the maintenance of historic resources.
 - (5) If rehabilitation is unnecessary, copies of receipts for the materials, labor and services needed to maintain the resource for at least the previous two years.
 - (6) At least two (2) estimates by real estate professionals and/or business consultants of the rent or income that could be derived from the resource when improved to a usable condition.

- C. In the case of a non-income producing resource (e.g., a church or an owner-occupied house) on a property an owner is unwilling to sell, the costs of rehabilitating and/or maintaining the resource significantly exceed the cost of demolishing the resource and constructing and maintaining a building or structure that is similar in function and size. To demonstrate this, the property owner shall submit the following evidence:
- (1) If rehabilitation is necessary, the information specified in Section 373-4.3 B. (3) and (4).
 - (2) If rehabilitation is unnecessary, the information specified in Section 373-4.3 B. (5).
 - (3) At least two (2) estimates by contractors of the cost of demolishing the resource.
 - (4) At least two (2) estimates by contractors of the cost of constructing and maintaining a replacement building or structure that is similar in size and function.

373-4.4 After considering all the site-specific evidence and findings relating to ESEE consequences, the Review Authority or Appeal Authority may decide against permanently applying the Historic and Cultural Resource Overlay District to a resource. The Review Authority or Appeal Authority may, however, temporarily apply the Overlay District for up to one-hundred and eighty (180) days from the date of final action on the quasi-judicial plan amendment or land use ordinance before it. During that period, the County shall explore all reasonable means of protecting the resource, including exploring informational and financial assistance for the property owner or public or private acquisition and/or relocation. If no means of protecting the resource is found within the 180-day period, the Historic and Cultural Resource Overlay District shall automatically be removed from the property. If alteration or demolition of the resource is intended by the property owner, the County shall ask the property owner to contact the Washington County Museum or another appropriate agency or organization such as the Historic Preservation League of Oregon to allow them the opportunity to salvage and record the resource before it is altered or demolished.

373-5 Applicability of the Overlay District

When the Historic and Cultural Resource Overlay District is applied to a resource, the tax lot that contains the resource shall be so designated on the relevant plan maps. This does not mean, however, that the entire tax lot is subject to the provisions of Section 373. Instead, the only buildings and structures on the tax lot subject to the Overlay District's provisions are those described in the Cultural Resources Inventory as significant, important, or contributing to the significance of the overall resource.

373-6 Permits

373-6.1 No development permit shall be issued for exterior alteration, relocation or demolition of any designated resource or any potential resource which is under consideration for designation while a public hearing or any appeal thereof is pending.

- 373-6.2 Any changes, alteration, rehabilitation, restoration and/or addition to the exterior design, material or external appearance of a designated historic or cultural resource including but not limited to siding, windows, doors, and other architectural features or appurtenances, roofing materials or roof lines, and any other architectural components of the original resource shall be reviewed through a Type II procedure.
- 373-6.3 A development permit to alter the exterior of a designated resource shall be approved if the Review Authority finds the following:
- A. The alteration will not impair or change the essential historic form and integrity of the historic property. The distinguishing historic qualities, features or character of the historic property and its site will not be impaired or altered unless:
 - (1) There is an immediate hazard to public safety and no alternative approach exists which would retain the features or minimize the impact of the proposed alteration;
 - (2) There are mandatory building or handicap codes or requirements, and it is not reasonably possible to retain the historic features or minimize the impact of the proposed alteration and also to comply with those codes or requirements; or
 - (3) The only alternative to the alteration would be demolition of the historic property.
 - B. The alteration will not create an earlier historic appearance which is different than the remainder of the property or which has no historic basis.
 - C. Distinctive stylistic features and examples of skilled craftsmanship have been retained to the greatest extent possible.
 - D. The alteration is compatible in design, size, arrangement, proportion, detail, scale, color, texture, material and character with the rest of the historic property and the nearby area.
 - E. Signs, lighting and other appurtenances, such as walls, fences, awnings and landscaping, will be visually compatible with the traditional architectural character of the historic property.
- 373-6.4 The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be used for guidance in the review of a development permit involving alteration of a historic and cultural resource.
- 373-6.5 Reasonable conditions may be imposed in granting an alteration permit. Particular conditions may be imposed based on the following considerations:
- A. Deteriorated architectural features should be repaired rather than replaced whenever possible. Deteriorated architectural features that cannot be repaired should be replaced with material which matches the original material in design, color, texture and other visual qualities. Whenever possible, repair or replacement of architectural features should be based on accurate duplications of features and composition of materials, substantiated by historic, physical, or

pictorial evidence rather than on conjectural designs or the availability of architectural elements from other buildings or structures.

- B. When surface cleaning of buildings or structures takes place, it should be undertaken with the gentlest effective means possible. Sandblasting and other abrasive cleaning methods that may damage the historic property should not be employed.
- C. Every reasonable effort should be made to protect known archeological resources affected by and adjacent to any alteration project.

373-6.6 Ordinary Maintenance and Repair

Nothing in this Section (373) shall be construed to prevent the ordinary maintenance or repair in or on any resource designated by this Section (373) that does not involve a change in design, material or external appearance thereof as defined in 373-6.2.

373-6.7 Any application to relocate or demolish a designated historic or cultural resource shall be reviewed through a Type III procedure.

373-6.8 Approval of a development permit to relocate a designated resource shall be based on all the following findings:

- A. The designated resource is in a land use district (e.g., R-9, R-15, R-24, R-25+, TO:R9-12, TO:R12-18, TO:R18-24, TO:R24-40, TO:R40-80, TO:R80-120, Neighborhood Commercial, Community Business, General Commercial, Office Commercial, TO:RC, TO:BUS, TO:EMP, Industrial, MAE, Rural Industrial or Rural Commercial) that allows higher density development; is an accessory building or structure to a historic farm house (e.g., a barn, garage or shed) in the R-5 or R-6 district; or is on land that is needed to accommodate the planned widening or realignment of a public road or transportation facility;
- B. The designated resource cannot reasonably be used in conjunction with the proposed use;
- C. It can be demonstrated that development of the site with the proposed use will occur within two years of approval of the development permit to relocate the designated resource;
- D. The location of the designated resource on a proposed development site precludes reasonable development of the site, and the locational problem cannot be reasonably resolved by an on-site relocation of a designated resource or the clustering of the proposed development;
- E. The designated resource is structurally capable of relocation;
- F. The proposed relocation site is a contextually appropriate setting for the designated resource; and
- G. The owner of the relocation site agrees, as a condition of the purchase agreement, to apply within ninety (90) days of relocation to the appropriate local jurisdiction for protection of the resource.

- 373-6.9 Approval of a permit to demolish a designated resource that does not qualify for abatement shall be based on findings A, B, C, and D in Section 373-6.8. Additionally, the Review Authority shall find:
- A. The designated resource cannot be moved because of structural inadequacies; or
 - B. The property owner has been unable to find an appropriate relocation site for the building despite a documented effort, for a period of at least ninety (90) days, to sell or offer it to other property owners; and
 - C. The property owner has documented that the Washington County Museum, and another appropriate agency or organization such as the Historic Preservation League of Oregon has been offered the opportunity to salvage and record the resource.
- 373-6.10 Where relocation or demolition would otherwise be allowed under Sections 373-6.8 and 6.9, yet preservation of a resource on its present site is in the public interest and complies with the intent of Statewide Planning Goal 5, the review authority or the appeal authority may delay issuance of a permit to relocate or demolish the resource for up to one-hundred and twenty (120) days from the date of the final decision to allow for public or private acquisition of the site which would result in preservation of the resource.

373-7 Exemptions

Pursuant to ORS 197.772(3) the Director, through a Type I procedure, shall allow a property owner to be exempt from Section 373 of the historic and cultural resource overlay district. While this provision exempts the property from the requirements of Section 373, it does not remove the designation. The designation may be removed through the procedures of Section 373-11.

373-8 Building Code Requirements

- 373-8.1 Any alteration or relocation of a historic or cultural resource shall be subject to the applicable regulations under the Uniform Building Code.
- 373-8.2 As provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic or cultural resource may be made without conformance to all the requirements of the Uniform Building Code when authorized by the building official, provided:
- A. Any unsafe conditions as described in the Uniform Building Code are corrected;
 - B. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and
 - C. The building official seeks the advice of the Oregon State Historic Preservation Officer, or designee.

In the case of appeals related to the application of the Uniform Building Code to a historic or cultural resource, the County Building Code appeals board or the appropriate State appeals board shall seek the advice of the State Historic Preservation Officer.

373-9 Partitions and Subdivisions

When considering the partition or subdivision of a parcel of land which is the site of a designated historic or cultural resource, the Review Authority shall not allow a significant feature of the original site, as identified in the County Inventory, to be located on a separate parcel from the resource.

373-10 Uses Allowed

Allowed uses of an Historic and Cultural Resource within a designated Historic and Cultural Resource Overlay District shall be the same as those allowed in the primary district. However, with the exception of the EFU, EFC and AF-20 districts, other uses may be permitted by the Review Authority through a Type III procedure as an extraordinary method to preserve or improve a resource which would probably not be preserved or improved otherwise. In the EFU, EFC and AF-20 Districts home occupations as defined by and meeting the criteria of ORS 215.448 may be permitted through a Type III procedure in a designated historic building or structure. Uses which would not be allowed in the primary district shall be conditioned by the Review Authority to minimize any adverse impacts on neighboring properties.

373-11 Removal of Designation

Unless revoked, the Historic and Cultural Resource Overlay District Designation may be removed only through a Plan Amendment process (through a Type III or Type IV procedure). The designation may be removed only upon substantial evidence that:

- 373-11.1 A property owner has requested removal of the designation pursuant to ORS 197.772; or
- 373-11.2 The original designation was in error; or
- 373-11.3 The resource has ceased to exist or is no longer of significance to the public, based on reevaluation of the criteria for a listing in the Cultural Resources Inventory under Comprehensive Framework Plan for the Urban Area Policy 11, Strategy a. or Rural/Natural Resource Plan Policy 13, Strategy a.; or
- 373-11.4 The economic, social, environmental and energy (ESEE) consequences of protection of the resource substantially exceed the ESEE consequences of allowing the conflicting use or activity. As an element of the ESEE analysis, evidence and findings necessary to demonstrate economic burden shall be as described in Section 373-4.3.

If the Review Authority only finds evidence of the criterion in 373-11.4, it may continue the hearing on the matter to a date certain no longer than one-hundred and eighty (180) days from the date the application was accepted. During this period, the County shall explore all reasonable means of protecting the resource, including exploring informational and financial assistance for the property owner or public or

private acquisition and/or relocation. If, by the second hearing date a means of assuring the protection of the resource has not been found, and the application has not been withdrawn, it shall be approved. If demolition of the resource is intended, conditions of approval shall be that: (1) the property owner documents that the Washington County Museum and another appropriate agency or organization such as the Historic Preservation League of Oregon have been given the opportunity to salvage and record the resource; and (2) the applicant shall demolish the resource, after obtaining necessary permits, within 180 days of final approval. If the demolition does not occur within that period, the County may initiate revocation of its action to remove the Overlay District, pursuant to Section 201-7.1.

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