

Portland Historic Resources Zoning Regulations

This document summarizes important historic resources-related provisions of Portland's Zoning Code (Title 33: Planning and Zoning). Relevant sections are scattered throughout the Code, but are found primarily in Chapter 445--Historic Resource Protection Overlay Zone and Chapter 846--Historic Reviews. Also included is a brief discussion of certain Building Code (Title 24: Building Regulations) provisions especially relevant to historic resources. This document is not the actual code; it summarizes and simplifies certain of its elements and does not reference all regulations that may apply in a given situation, such as base zone requirements, design guidelines and Comprehensive Plan policies. A section on finding more information is included at the end.



I. Types of Historic Resources

It is important to understand how historic resources are classified by the City, because zoning regulations and incentives may apply differently, depending on the designation. A property may have more than one designation. Generally, depending on the context, the “higher” level of designation controls.

▪ **Historic Landmarks**

This designation is applied to individual resources, such as buildings, a portion of a building, sites, trees, statues, signs, or other objects or spaces, that are significant for historical, cultural, archaeological, or architectural merit. Historic landmarks have one or more characteristics of at least statewide or national significance. There are two types of historic landmark: 1) “local” or “Portland” landmarks, i.e. individual landmarks designated by the City of Portland; and 2) “National Register properties,” i.e. landmarks that are individually listed on the National Register of Historic Places. Local and National Register historic landmarks are generally treated the same in the zoning code—with the notable exception of demolition review. Portland has approximately 500 historic landmarks throughout the city. They tend to be concentrated in the older inner-city areas and along main streets and former streetcar lines.

▪ **Conservation Landmarks**

This is a local, City of Portland designation applied to individual resources that are significant for historic, cultural, archaeological, or architectural merit. The level of significance for conservation landmarks is generally “lower” than for historic landmarks, primarily at the local or neighborhood level. The City has 13 conservation landmarks. Note: When the zoning code uses the shortened term “landmark,” it is referring to *both* historic landmarks and conservation landmarks.

▪ **Historic Districts**

This designation is applied to a geographic area that contains a concentration of thematically related historic resources. In general, the historic values of historic districts are of significance, at minimum, to the City as a whole, and usually at the statewide or national level. Like historic landmarks, there are two types of historic district: 1) “local” historic districts, designated by the City; and 2) “National Register” districts, those listed on the National Register of Historic Places. However, all of Portland’s historic districts (including the locally designated districts) are listed on the National Register. An important distinction is made between “Contributing” and “Non-Contributing” resources in historic districts. Contributing resources date from the historic period of significance and contribute to the significance and character of the district, through their historical associations and/or architectural values. Non-contributing resources are those that, due to date of construction, alterations, or other factors, do not contribute to the district’s historic significance or character. Application of zoning regulations in a historic district usually depends on a property’s contributing status. Portland has 13 historic districts, primarily in or near the Central City.

▪ **Conservation Districts**

Conservation districts are designated by the City of Portland. Like historic districts, this designation is applied to an area that contains a concentration of related historic resources. The level of significance is generally “lower” than for historic districts, primarily at the local or neighborhood level. A distinction between “Contributing” and “Non-Contributing” resources is also made in these districts. The city has seven conservation districts, primarily in North and Northeast Portland.

▪ **Properties Listed in the Historic Resources Inventory**

The City of Portland adopted a citywide inventory of more than 5,000 potentially significant properties in 1984. Being listed in the HRI is not a true historic designation, as additional documentation and evaluation is required before official designation or National Register listing is warranted for these properties. The only regulation that applies to these properties is a required 120-day demolition delay period.

II. Historic Designation Processes

Though the processes are different, pursuing a historic designation at either the local or National Register level requires research and documentation sufficient to make a case for, and allow evaluation of, a resource’s historical, cultural and/or architectural significance. Finding and synthesizing this material is the responsibility of the property owner or application/nomination preparer(s). The Bureau of Planning can assist by providing materials and referrals relating to: approval criteria and evaluation factors; nomination form preparation; researching building histories, architecture and local history; and other information.

▪ **National Register Listing**

The National Register nomination process for individual properties and districts may be initiated by citizens, property owners, or local, state and Federal governmental bodies. The first part of the process is administered by the State Historic Preservation Office. SHPO staff and the State Advisory Committee on Historic Preservation review nominations submittals and forward them with any required revisions and recommendations to the National Park Service for final review and listing. Portland’s Bureau of Planning and Historic Landmarks Commission also review all nominations, usually holding a public meeting. The Landmarks Commission then makes recommendations to SHPO staff and the State Advisory Committee, prior to final state-level review. Owner consent is required prior to final listing for individual nominations, and more than 50 percent of a proposed historic district’s property owners must object in order to prevent listing. The National Register nomination process is discussed in greater detail in other publications; contact the Portland Bureau of Planning or SHPO for more information.

▪ **City of Portland Historic Designation Process**

Historic and conservation landmarks and historic and conservation districts are designated by the Portland Historic Landmarks Commission through either a quasi-judicial Historic Designation Review process (a land use review administered by the Bureau of Development Service and usually initiated by a property owner for a single or small number of properties) or a legislative procedure (generally for a larger number of properties and led by the Bureau of Planning, sometimes as part of a broader land use process such as an area planning initiative). As required by State statute, local landmark designations require the affirmative consent of the property’s owner(s). Local historic and conservation district designations require the affirmative consent of *all* property’s owner within the district. The procedures and approval criteria for designating individual landmarks and districts are provided in primarily in Zoning Code Chapters 33.445 and 33.846.

Approval criteria and requirements for local designation are based, in part, on those used for National Register nominations. The criteria are the same for historic landmarks, conservation landmarks, historic districts and conservation districts. There are 12 general approval criteria, of



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which at least three must be met, requiring evaluation of the resource's significance in terms of its: architectural values; historical associations; physical integrity; contributions to the area's or city's character; and/or its contribution to a grouping of related resources. A "Level of Protection" criterion determines which type of designation is applied, based on the historic value of the resource.

- **Local Historic Designation Removal Process**

Local historic designations are automatically removed if the resource is destroyed by forces beyond the owner's control or if it is relocated or demolished after demolition delay review or demolition review. Historic Designation Removal Review allows for removing a local designation when requested by the owner. The applicant must show that the benefits to the public and the property owner of retaining the historic designation no longer outweigh the benefits of removing the designation, or, that the owner objected to the designation at the time it was first adopted.

- **New listings in the Historic Resources Inventory** may be effected by the Historic Landmarks Commission and also require affirmative property owner consent. Resources currently listed may be removed from the HRI, if requested by the owner in writing. These owner consent and removal provisions, driven by state law, weaken the HRI as a local preservation planning and designation tool, and are among the reasons it has not been updated.

III. Historic Design Review

Historic Design Review is one of the City's most important preservation tools, helping to ensure that the special characteristics, historic integrity, and architectural character of designated resources are preserved over time. Alterations to historic and conservation landmarks generally require this review, to ensure that historic values are considered and preserved when changes are made. Construction of a new building and alterations to an existing structure—regardless of its contributing status—also requires Historic Design Review. This ensures that development activity supports and enhances the qualities that make the area historic. Generally, normal repair and maintenance and interior alterations do not require Historic Design Review.



There are two types of design review. Major design reviews are processed through a Type III procedure, which requires a public hearing, with a decision by the Historic Landmarks Commission. Minor design reviews are processed through a Type II procedure, with a decision by BDS staff. Determining which projects go through major or minor design review is based on the type of development and/or the value of the improvements.

Review Factors and Approval Criteria

Historic design review is a discretionary process that evaluates a number of elements of the proposed construction or alteration, including: architectural style; structure placement, dimensions, height, and bulk; lot coverage; building materials and color; and other factors. The approval criteria are the adopted design guidelines applicable in the area in which the resource is located. Guidelines specific to a district have been adopted for some areas of the city, such as the *King's Hill Historic District Guidelines* and the *NW 13th Avenue Historic District Guidelines*. For landmarks and districts in other areas, the criteria contained in Zoning Code Section 33.846.060.G are generally used. These criteria are also applied to all historic and conservation landmarks in the Central City, in addition to any district-specific guidelines that might apply. In some areas, the *Community Design Guidelines* are used. The content and emphasis of the different sets of guidelines varies. As an illustration, the criteria of Section 33.846.060.G are reproduced below:

- **Historic character.** The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided;

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- **Record of its time.** The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided;
- **Historic changes.** Most properties change over time. Those changes that have acquired historic significance will be preserved;
- **Historic features.** Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
- **Historic materials.** Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used;
- **Archaeological resources.** Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken;
- **Differentiate new from old.** New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old;
- **Architectural compatibility.** New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource;
- **Preserve the form and integrity of historic resources.** New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired; and
- **Hierarchy of compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

IV. Zoning Code Preservation Incentives

Special zoning provisions, or incentives, encourage new historic designations and increase the potential for historic resources to be used, renovated, and preserved. When a preservation incentive is used, the owner usually must execute a covenant with the City affirming that they, and subsequent owners, agree to go through Demolition Review prior to demolishing the resource (see the following section on demolition of historic resources). Most of the incentives are described in section 33.445.610 Historic Preservation Incentives, but a few are contained, in whole or in part, in other sections of the code. Not all incentives are available to every type of resource.

- **Transfer of density and floor area ratio (FAR).** Transfer of unused density or FAR (sometimes called transfer of development rights, or TDRs) from a historic or conservation landmark to another location is allowed in certain Multi-Dwelling, Commercial, and Employment zones. Transfers from properties in districts are not allowed, unless they are also landmarks. Density or FAR may be transferred within the neighborhood where the landmark is located or to any site within two miles of the landmark. By allowing unused development potential to be transferred, redevelopment pressure on the landmark is lessened and a potential source of income is provided, as the owner may sell these rights to the owner or developer of the receiving site. Transfers are described in sections 33.445.610, 33.120.205.E, 33.130.205.C and 33.140.205.C.

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- **Additional density in Single-Dwelling zones.** Historic and conservation landmarks in Single-Dwelling zones may be used as multi-dwelling structures, up to a maximum of one dwelling unit for each 1,000 square feet of site area. The landmark may be expanded only if the expansion is approved through Historic Design Review. This incentive provides an opportunity for more economic use of landmarks, for instance, by allowing an owner to add dwelling units to a single-family residence. For additional information, see Section 33.445.610 of the Zoning Code.
- **Additional density in Multi-Dwelling zones.** Historic and conservation landmarks located in Multi-Dwelling zones may be used as multi-dwelling structures, with no maximum density limits. The building may be expanded only if the expansion is approved through Historic Design Review. This incentive provides economic benefits for preserving a landmark by allowing the addition of dwelling units beyond what would normally be allowed—even if the structure were demolished and a new building constructed. This increases a property’s income potential and discourages demolition.
- **Daycare in residential zones.** Daycare businesses are allowed in historic and conservation landmarks and contributing structures in historic districts in Residential zones without the uncertainties and expenses of the Conditional Use Review process that would normally be required.
- **Conditional uses in R, C, and E zones.** In Residential, Commercial and Employment zones, applications for conditional use permits in historic and conservation landmarks and contributing structures in historic districts are processed through a Type II procedure, rather than the more intensive and expensive Type III procedure usually required for these reviews. Examples of conditional uses would include group living situations and schools in zones where they are otherwise not allowed by-right.
- **Exemption from minimum density.** This incentive exempts historic and conservation landmarks and contributing structures in historic districts from all minimum housing density requirements, which sometimes require a density level that limits development options in historic structures and compromises a property’s historic appearance and/or the neighboring environment. Development proposals are allowed to establish or reestablish residential densities lower than the current requirements. For instance, this provision would allow conversion of a historic commercial or institutional building in a multi-dwelling zone to residential use at a lower than normally required density, potentially reducing negative impacts to the historical character of the building and neighborhood (by, say, eliminating the need to construct a new addition, or simply redeveloping the site completely).
- **Nonresidential uses in the RX zone.** In historic and conservation landmarks and contributing structures in historic districts in the RX zone, up to 100 percent of the floor area of a structure may be approved for Retail Sales And Service, Office, Major Event Entertainment, or Manufacturing And Production, through a Historic Preservation Incentive Review process. This incentive provides a more flexible range of allowed land uses that substantially increase the development options and income potential for designated resources. The Historic Preservation Incentive Review process requires: consistency with neighborhood and area plans; no significant lessening of residential appearance or function of the area; physical compatibility; no significant livability impacts (e.g. noise, late night operations, privacy); and adequacy of services. For additional information, see code sections 33.445.610 and 33.846.050.
- **Nonresidential uses in the RH, R1 and R2 zones.** In historic and conservation landmarks and contributing structures in historic districts in the RH, R1 and R2 zones, up to 100 percent of the floor area of a structure may be approved for Retail Sales And Service, Office, or Manufacturing And Production through Historic Preservation Incentive Review. The last allowed use in the structure must have been



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nonresidential; if part of the structure was in residential use, the proposal must include at least as many dwelling units as were part of the last allowed use or uses. Because nonresidential uses are sharply restricted in residential zones, historic buildings that do not lend themselves to renovation and reuse as dwellings, such as churches, meeting halls, and commercial storefront buildings, can suffer from disinvestment or demolition. This incentive encourages renovation and reuse by providing a more flexible range of allowed land uses that substantially increase the development options and income potential for these resources. See the previous incentive for a description of the required Historic Preservation Incentive Review.

- **Commercial allowances in Employment and Industrial zones.** Historic landmarks in Employment and Industrial zones have increased by-right and conditional use allowances for Office and Retail Sales and Services. The increased allowances recognize that some historic industrial buildings cannot economically accommodate modern industrial activities due to design inefficiencies or structural deficiencies and therefore are often underutilized, neglected and sometimes demolished. The incentive encourages their reuse by providing more development flexibility and higher income potential for historic landmarks in areas where non-industrial uses are otherwise tightly restricted. See Chapter 33.140, Employment and Industrial Zones in the Zoning Code.
- **Commercial allowances in the Central City IG1 Zone.** In the IG1 zone in the Central City Plan District, historic landmarks have increased by-right and conditional use allowances for Office and Retail Sales and Services. The conditional use approval criteria for larger office uses limit negative impacts on the transportation system and nearby industrial uses. The increased allowances encourage preservation and reuse of historic landmarks by providing additional development flexibility and higher income potential in an area where non-industrial uses are otherwise tightly restricted.
- **Incentives in the Guild’s Lake Industrial Sanctuary District.** Historic landmarks in the IH zone in the Guild’s Lake Industrial Sanctuary Plan District have increased allowances for Office and Retail Sales and Services. The increased allowances encourage preservation and reuse of historic landmarks by providing additional development flexibility and higher income potential in an area where non-industrial uses are otherwise tightly restricted. For additional information about this incentive, see Chapter 33.531 in the Zoning Code.

V. Demolition or Relocation of Historic Resources

Historic resource demolition regulations provide for a deliberative process prior to the permanent loss of a piece of the city’s built heritage. Depending on the type of resource, one of two different processes, Demolition Delay Review or Demolition Review (or no review) is required when the City receives a request to demolish a designated historic resource. Relocation requests are also subject to these reviews. The table below summarizes their applicability.

Resource Type	Demolition Review	Demolition Delay Review	No Review
Historic Landmark, National Register			
Contrib. in Historic District			
Historic Landmark, Local			
Conservation Landmark			
Contrib. in Conservation District			
Ranked in HRI			
Noncontrib. in Historic District			
Noncontrib. in Conservation District			
Unranked in HRI			

- **Demolition Delay Review**
Applicable to locally designated resources, this nondiscretionary administrative process requires a 120-day delay period to allow time for consideration of alternatives to demolition, such as restoration, relocation, or

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salvage. Photographic documentation of the resource and evidence that the applicant responded to any relocation or salvage offers is required. The City has no authority to deny demolition after the delay.

- **Demolition Review.** Requests for demolition of resources individually listed on the National Register of Historic Places and contributing structures in National Register-listed historic districts require this discretionary land use review. The City has the authority to deny the request or place conditions on approval. The Demolition Review process also gives the public an opportunity to comment on the proposed demolition and allows for pursuit of alternatives to demolition or actions that mitigate for the loss. In this Type IV land use review, the Historic Landmarks Commission advises City Council, which may either approve, approve with conditions, or deny the request. Council will approve a request to demolish the resource if the applicant can show that *either*:
 - Demolition of the resource has been evaluated against and, on balance, has been found supportive of the goals and policies of the Comprehensive Plan and relevant area plans, taking into account factors such as: the merits of proposed new development on the site, the merits of preserving the resource, and the area's desired character;

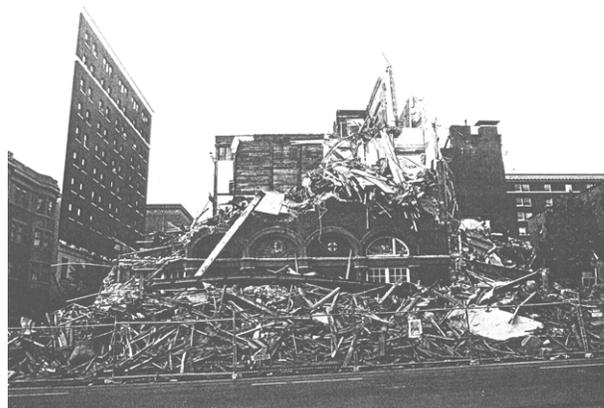
Or

- Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site.

In essence, the applicant must argue that demolition of the resource (and redevelopment of the site) meets a public purpose, as found in applicable adopted plans, that outweighs preservation, or, that preventing demolition creates an unreasonable economic hardship because preservation or rehabilitation is not economically viable. In order to help the City evaluate such a claim, supportive documentation is required, such as studies of the structural soundness of the structure, the economic feasibility of restoration, renovation, or rehabilitation, and a summary of the extent to which the applicant explored the available historic preservation incentives and programs. If City Council approves a request, a demolition permit will not be issued until a permit for a new building is issued for site. This not only prevents replacement of historic resources with surface parking or a vacant lot, but also provides the mechanism for enforcing any conditions placed on the demolition review approval.

VI. Building Codes: Special Provisions for Historic Buildings

Building construction activities are regulated by several state and local Building Codes administered in Portland by the Bureau of Development Services. These include the Oregon One and Two Family Dwelling Code, the Oregon Structural Specialty Code, and the Oregon Uniform Fire Code. In addition, several City of Portland code titles apply, including Title 24: Building Regulations, which includes rules for building renovations and rehabilitations, seismic upgrades, changes in occupancy, building moves, and partial and complete building demolitions. As a general rule, these building codes provide standards that are easier to implement in new construction and are technically and financially challenging to apply to existing, and, especially, historic structures. However, there are a few tools designed to assist development work in these buildings.



- **Relaxed Seismic Upgrade Requirements**

As part of the 2004 Historic Resources Code Amendments project, City Council adopted revisions to Title 24: Building Regulations that relaxed elements of the seismic design requirements for existing and historic unreinforced masonry buildings. Seismic upgrades are a significant cost in building rehabilitations—in many cases discouraging renovation and encouraging deterioration and underutilization of historic buildings.

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These amendments are intended to facilitate renovation and adaptive reuse of these buildings, while still ensuring their safety. The amendments include:

- Relaxed monetary, floor area and occupant load triggers for seismic upgrades;
 - Provisions for “less than full code” upgrades in certain lower hazard situations;
 - An allowance for mezzanine additions without triggering a full building seismic upgrade; and
 - New provisions for Live/Work spaces in historic buildings.
- **FLEx Guide: Alternative Structural Solutions for Existing and Historic Buildings**
The Bureau of Development Services has prepared several “Code Guides” to help owners, developers and building professionals understand and apply various building code provisions. Of particular relevance to historic structures is the *Fire and Life-Safety Guide for Existing Buildings (FLEx Guide)*, which addresses the difficulty of applying the new construction-oriented Oregon Structural Specialty Code to the unique circumstances of existing and historic buildings. The *FLEx Guide* clearly defines alternative design, methods of construction, and materials for rehabilitation projects that are acceptable to the Bureau of Development Services without filing a formal appeal. Use of the *FLEx Guide* saves time and money by reducing the need for appeals and allowing for potential reuse of existing materials in historic buildings.

VII. Getting More Information

As the City’s long-range planning agency, the Bureau of Planning (BOP) is responsible for developing and amending the Zoning Code, while the Bureau of Development Services (BDS) is responsible for implementing it, i.e. applying its provisions to specific projects. The complete Zoning Code, maps showing the location of historic resources, adopted design guidelines and other relevant documents are available from the Bureau of Planning. Many are available on the our web site. Consult with the Bureau of Development Services about interpreting and applying the code to specific situations and about land use review processes, such as historic design review.

Bureau of Planning

1900 SW 4th Avenue, Suite 4100
Portland OR 97201

503-823-7700

pdxplan@ci.portland.or.us
RE: Historic Resources

<http://www.portlandonline.com/planning/>

Bureau of Development Services

1900 SW 4th Avenue, Suite 500
Portland OR 97201

Drop-in Development Services Center
on first floor

Planning and Zoning Info: 503-923-7526
Building Code Info: 503-823-7310

<http://www.portlandonline.com/bds/>

