Chapter 358

2009 EDITION

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358.005 [1961 c.160 §18; renumbered 357.805]

358.010 [Renumbered 357.815]

OREGON HISTORICAL SOCIETY

358.015 State policy to contribute to Oregon Historical Society. The state recognizes a continuing obligation to contribute to the support of the Oregon Historical Society. The amount appropriated each biennium will be considered the continuing level of state aid for operation of the society for the next biennium. Supplements may also be added to acknowledge inflationary factors and as a match for demonstrated increases in membership dues or a combination thereof. [1979 c.72 §2]

358.018 Duties of Oregon Historical Society. (1) The Oregon Historical Society shall advise the Department of Transportation on acquisition, development and operation of historic places.

(2) The Department of Transportation shall consider the advice of the Oregon Historical Society, particularly advice regarding the designation of historic buildings, sites and other historic places. [Formerly 358.770]

358.020 [Renumbered 357.825]

358.030 [Amended by 1961 c.160 §20; renumbered 357.835]

OREGON HISTORIC FAMILIES DATABASE

358.035 Oregon Historic Families database; duties of State Archivist. (1) The State Archivist shall establish the Oregon Historic Families database to provide genealogy research material and to encourage genealogy studies of historic families of Oregon.

(2) The State Archivist shall compile Oregon data taken from decennial censuses prior to 1910. The State Archivist shall consolidate information pertaining to genealogy of Oregon Historic Families in cooperation with the Oregon Historical Society, county historical societies and genealogical societies.

(3) The Oregon Historic Families database shall be funded by federal grants from the National Endowment for the Humanities or other sources made available for purposes such as establishing the database. The State Archivist may submit applications for federal grants to establish the database.

(4) As used in this section, "Oregon Historic Families" means individuals whose names appear in decennial census data prior to the census of 1910. [1989 c.685 §1]

358.040 [Renumbered 357.845]

OREGON HISTORIC TRAILS

358.045 Oregon Trail; comprehensive program for development. The Oregon Historical Society shall prepare, administer and periodically revise a comprehensive program for the development of the Oregon Trail as a major historical attraction in this state. The program prepared by the Oregon Historical Society shall provide for:

(1) Coordination of local, regional and national efforts to develop the Oregon Trail.

(2) Encouragement of Oregon Trail recognition and interpretation in cities situated along the Oregon Trail.

(3) Development of an integrated concept plan and economic feasibility study for Oregon Trail interpretive facilities across the state. [1989 c.1014 §2]

358.050 [Amended by 1961 c.160 §21; renumbered 357.855]

358.055 Oregon Trail; promotion as major tourist attraction. The Oregon Business Development Department shall promote the Oregon Trail as a major tourist attraction in this state, consistent with maintaining the historical integrity of the Oregon Trail by:

(1) Preparing and distributing maps, brochures and other promotional literature that publicize the historical, cultural and recreational opportunities available along the Oregon Trail.

(2) Promoting the celebration of the 150th Anniversary of the Great Migration of 1843 on the Oregon Trail. [1989 c.1014 §3; 1993 c.736 §50]

358.057 Value and significance of state historic trails. Oregon recognizes the value and significance of its historic trails, including:

(1) The Lewis and Clark National Historic Trail;

(2) The Oregon National Historic Trail;

(3) The Applegate National Historic Trail;

(4) The Nez Perce National Historic Trail;

(5) Alternate routes of the Oregon Trail including:

(a) The Whitman Mission Route;

(b) The Upper Columbia River Route;

(c) The Meek Cutoff;

(d) The Free Emigrant Road; and

(e) The Cutoff to the Barlow Road; and

(6) Major historic trails of Oregon including:

(a) The Klamath Trail;

(b) The Jedediah Smith Route;

(c) The Nathaniel Wyeth Route;

(d) The Benjamin Bonneville Route;

(e) The Ewing Young Route;

(f) The John Fremont Route; and

(g) The Santiam Wagon Road. [1995 c.479 §1]

358.060 [Amended by 1961 c.160 §22; renumbered 357.865]

358.070 [Renumbered 357.875]

358.080 [Amended by 1961 c.172 §6; renumbered 357.885]

358.090 [1961 c.160 §19; renumbered 357.895]

358.110 [Repealed by 1981 c.126 §6]

358.120 [Repealed by 1981 c.126 §6]

358.130 [Repealed by 1981 c.126 §6]

358.140 [Repealed by 1981 c.126 §6]

358.150 [Repealed by 1981 c.126 §6]

COUNTY HISTORICAL FUND

358.160 [Repealed by 2005 c.22 §255]

358.170 [Amended by 1965 c.327 §1; repealed by 1983 c.350 §227 (358.171 enacted in lieu of 358.170)]

358.171 Election to establish county historical fund. (1) This section establishes the procedure for determining whether a county historical fund should be created. The question shall be decided by election. The governing body of a county:

(a) May order the election on its own resolution; or

(b) Shall order the election when a petition is filed as provided in this section.

(2) An election under this section shall determine:

(a) Whether a county historical fund should be created; and

(b) The amount of taxes to be levied annually for the fund.

(3) The resolution or the petition calling an election under this section shall designate the amount of taxes to be levied annually for the county historical fund.

(4) The requirements for preparing, circulating and filing a petition calling an election under this section shall be as provided for an initiative petition in ORS 250.165 to 250.235.

(5) Notwithstanding subsection (4) of this section, if ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county charter or an ordinance adopted under the county charter.

(6) The notice, time and manner of election shall be governed by the applicable provisions of ORS chapters 246 to 260.

(7) An election under this section may be held only on the date of a statewide general election. [1983 c.350 §228 (enacted in lieu of 358.170); 1995 c.79 §198; 1999 c.21 §71]

358.180 Tax levy for county historical fund; limitation. (1) When authorized by the electors as set forth in ORS 358.171, the county court may levy, in addition to the taxes now permitted by law to be levied, an ad valorem tax upon the taxable property in the county for the purpose of creating a county historical fund.

(2) The levy shall be a continuing levy in the amount required by the detailed estimates annually filed with the county court under ORS 358.200 less any amount carried forward from the preceding year excepting reserve funds previously set aside and approved by the county court, but not exceeding one-fortieth of one percent (0.00025) or such part thereof as is authorized by the electors of the county, of the real market value of all taxable property within the county, computed in accordance with ORS 308.207. [Amended by 1963 c.9 §17; 1977 c.325 §1; 1991 c.459 §323]

358.190 Historical fund not subject to Local Budget Law. The county historical fund is not subject to the provisions of the Local Budget Law and shall be a continuing fund. [Amended by 2003 c.46 §50]

358.200 Annual estimate of historical societies. Upon the creation of a county historical fund, the president and secretary of any historical society organized as a nonprofit organization under the laws of Oregon, affiliated with and approved by the Oregon Historical Society and including in its purposes the acquisition by gift, purchase or other means and the preservation of historical objects, real and personal property of historical interest, records, material and data for the purpose of which the fund was created, and the acquisition by gift, purchase, or other means, of real and personal property for use in connection with any of those purposes, may, on or before March 1 of each year, file with the county court of such county a detailed estimate of the money required during the year commencing the following July 1 for such purposes. [Amended by 1977 c.325 §2]

358.210 Disbursement of county historical fund. Upon the filing of the detailed estimate and approval thereof by the county court, all moneys in the county historical fund are subject to disbursal by warrants drawn by the historical society and signed by the president and secretary of the society. No money withdrawn from the fund shall be expended except for purposes set forth in ORS 358.200 and included in the detailed estimate.

358.220 Annual report of expenditures. On or before January 1 of each year, every historical society specified in ORS 358.200 which has received moneys from a county historical fund shall submit a report in writing to the county court showing in detail how such moneys have been expended during the preceding fiscal year ending June 30. [Amended by 1977 c.325 §3]

358.230 Termination of tax levy for county historical fund. The authority to levy taxes for the county historical fund shall be deemed terminated in any county by the majority vote of the electors of the county voting to that effect on such question at any general election. Such termination shall be without prejudice to any subsequent authorization of such levy under ORS 358.171 and 358.180.

CITY MUSEUMS

358.310 Definitions for ORS 358.310 to 358.405. As used in ORS 358.310 to 358.405, unless the context requires otherwise:

(1) "Governing body" means the city council in relation to a city museum or the respective city councils of the two or more cities in relation to a joint city museum.

(2) "Museum" includes any collection of archaeological specimens, artifacts, pioneer relics, articles, documents and other things of historical, scientific or artistic import assembled, displayed, preserved and protected for the benefit of the public, for educational and scientific purposes or to commemorate the occupation and development of the Pacific Northwest region, and the structure or structures housing such collection.

(3) "Museum objects" includes any of the objects described in subsection (2) of this section. [1953 c.481 §1; 1973 c.757 §1; 1983 c.260 §3]

358.315 General authority of cities regarding public museums. Any city acting through its governing body or a museum commission established under ORS 358.320, may, for public museum purposes:

(1) Accept deeds, gifts, devises or bequests of land, money or other valuable things and hold, control or dispose of such things according to the terms of the deed, gift, devise or bequest, except that whenever the deed, gift, devise or bequest is conditioned upon any act of the city or the museum commission, the governing body of the city shall determine prior to acceptance whether the condition may be complied with.

(2) Accept in the name of the city, and thereafter hold as public property, museum objects given for museum purposes by any person, historical society, association or other organization.

(3) Purchase, collect, exchange for or otherwise acquire museum objects in the name of the city, and thereafter hold or dispose of the same as public property.

(4) Receive in the name of the city museum objects loaned for display, holding them in accordance with the terms of the loan agreement and displaying them for the benefit of the public and for educational and scientific purposes.

(5) Enter into all necessary contracts or agreements for services, assistance or cooperation with the federal government or any of its agencies, with the State of Oregon or any of its educational institutions or agencies, with any political subdivision of this state, with any person, including nonprofit educational or foreign corporations, or with educational and scientific foundations. [1953 c.481 §2; 1973 c.757 §2; 1983 c.260 §4]

358.320 Museum commission. (1) The governing body of a city may appoint a museum commission, which shall consist of seven members chosen with reference to their fitness for the position.

(2) The members of a city museum commission shall be residents of the city in which the museum is or is to be located. When two or more cities jointly establish, maintain and operate a public museum, four of the members of a joint city museum commission shall be residents of the city in which the museum is or is to be located and three of the members shall be residents of the other city or cities. [1953 c.481 §6; 1957 c.200 §1; 1969 c.693 §2; 1973 c.72 §1; 1973 c.757 §3; 1983 c.260 §5]

358.325 Terms of commission members. Two of the first members of a museum commission shall be appointed for one year, two shall be appointed for two years and three shall be appointed for three years, as determined by the governing body. Except for the first members and appointments to fill vacancies, the terms of members of a museum commission shall be three years and until their successors are appointed and qualified. [1953 c.481 §7]

358.330 Chairperson and secretary of commission; duties of commission regarding records, rules, reports and budgets. A museum commission shall:

(1) Elect a chairperson and secretary to serve until the next succeeding first Monday in January and until their successors are elected. The secretary shall keep permanent and complete records of the proceedings of the museum commission.

(2) Adopt rules governing the transaction of its business.

(3) Prepare and submit an annual budget and an annual report to the governing body. [1953 c.481 §10]

358.335 Vacancies on commission. A vacancy in the position of member of a museum commission shall be filled by a qualified person appointed by the governing body for the remainder of the unexpired term of the appointee's predecessor in the position. [1953 c.481 §8]

358.340 Compensation of commission members. The members of a museum commission shall receive no compensation as members, but shall be reimbursed for expenses incurred in the performance of their duties and approved by the chairperson of the museum commission. [1953 c.481 §9]

358.345 Authority of city to establish and operate public museum. (1) Any city may establish, maintain and operate a public museum.

(2) Any two or more cities may jointly establish, maintain and operate a public museum. [1953 c.481 §3; 1957 c.200 §2; 1973 c.757 §4; 1983 c.260 §6]

358.350 [1953 c.481 §4; repealed by 1957 c.200 §3]

358.355 Acquisition of site and structure for museum. In the event that a public museum is established under ORS 358.345, the city or two or more cities, acting through the governing body or museum commission, may:

(1) Acquire a site or sites for the museum.

(2) Construct a structure or structures to house the museum collection, or lease a structure or structures for such purpose for not more than 50 years.

(3) Use public sites or structures or both for museum purposes. [1953 c.481 §5; 1973 c.757 §5; 1983 c.260 §7]

358.360 Duties of museum commission respecting establishment of museum. A museum commission shall:

(1) Determine the kind and class of museum to be established and submit such determination to the governing body.

(2) Investigate and determine the most suitable location for the museum and the adequacy of roads or streets and parking areas therefor, and submit its proposals relating thereto to the governing body.

(3) Subject to approval by the governing body, arrange for the design of the museum and the preparation of plans therefor.

(4) Investigate and make determinations with regard to such other preliminary matters in connection with a public museum as are deemed necessary or desirable, and submit its proposals relating thereto to the governing body.

(5) When the establishment of a museum is authorized under ORS 358.345, and upon authorization by the governing body, prepare bids and advertise for bids for the construction of the proposed museum. [1953 c.481 §11]

358.365 Duties of museum commission respecting operation of museum. When a museum is established under ORS 358.345, a museum commission shall:

(1) Maintain and operate the museum for and in the name of the city or two or more cities.

(2) Subject to the approval of the governing body before they become effective, adopt and publish rules relating to the operation of the museum, admission charges thereto and the administration of the museum objects in the museum.

(3) In conformity with its rules and ORS 358.310 to 358.405, act as administrator of all museum objects in the museum.

(4) Establish maintenance and operating policies sufficient to keep the museum presentable and in a proper state of repair.

(5) Subject to the approval of the governing body, advertise the museum in an appropriate manner.

(6) Compile, print and sell or distribute free of charge historical, educational, scientific and artistic literature.

(7) Subject to the approval of the governing body, employ necessary employees and fix their compensation.

(8) Prescribe and publish a charge or charges which may be made for admission to the museum.

(9) Collect all admission charges and other museum revenue, and pay such charges and other revenue into the treasury of the city or two or more cities, to be deposited to a separate account and disbursed by the museum commission as directed by the governing body. [1953 c.481 §§12,13; 1973 c.757 §6; 1983 c.260 §8]

358.370 Payment of expense of museum operation. The governing body may provide for the payment of the expense incident to museum operation, care and maintenance of museum objects, structures and grounds, and compensation of employees by means of annual budgeting and appropriation. [1953 c.481 §14]

358.375 Issuance of bonds to acquire museum site and structure. (1) In the case of a city museum, and when authorized by the electors of the city voting at a primary election or general election, the governing body may issue general obligation or revenue bonds of the city for the purpose of providing all or part of the funds necessary to acquire

a museum site or sites and to construct the museum.

(2) In the case of a joint city museum, and when authorized by the electors of the two or more cities voting at a primary election or general election, each city council of the two or more respective cities may issue general obligation bonds or revenue bonds of each of the two or more respective cities for the purpose of providing such portion of the funds necessary to acquire a museum site or sites and to construct the museum as is determined by the governing body. [1953 c.481 §§15,16; 1973 c.757 §7; 1983 c.260 §9; 1983 c.350 §§229,229a; 1987 c.267 §78; 1995 c.712 §109]

358.380 General bond law applicable to museum bonds. The provisions of ORS chapter 287A apply to bonds issued under ORS 358.375. [1953 c.481 §17; 1983 c.260 §10; 2007 c.783 §160]

358.385 Pledge of museum revenues for payment of museum bonds. The governing body may pledge all or part of museum revenues, collected or to be collected, as security for the payment of general obligation bonds or revenue bonds issued under ORS 358.375. [1953 c.481 §18]

358.390 Revenue bonds and pledges of revenue not general obligations of city. Revenue bonds issued under ORS 358.375 and pledges of revenue under ORS 358.385 shall not be construed as a general obligation of the issuing city. [1953 c.481 §19; 1983 c.260 §11]

358.395 [1953 c.481 §20; repealed by 2007 c.783 §234]

358.400 [1953 c.481 §21; repealed by 2007 c.783 §234]

358.405 Method of settling disagreement where joint action of cities required. Whenever joint action by the city councils of two or more cities is required or authorized under ORS 358.310 to 358.405, and there is disagreement between or among the city councils of the two or more respective cities, the matter shall be submitted to a judge of the circuit court for the judicial district in which the joint city museum is located, who shall arbitrate and decide the matter. [1953 c.481 §22; 1973 c.757 §8; 1983 c.260 §12]

LOANS TO MUSEUMS

358.415 Definitions for ORS 358.420 to 358.440. For the purposes of ORS 358.420 to 358.440:

(1) "Loan," "loaned" and "on loan" include all deposits of property with a museum that are not accompanied by a transfer of title to the property.

(2) "Museum" means an institution located in Oregon that:

(a) Is primarily educational, scientific or aesthetic in purpose;

(b) Owns, borrows or cares for, and studies, archives or exhibits property; and

(c) Is operated by a nonprofit corporation or public agency.

(3) "Property" includes all tangible objects, animate and inanimate, under a museum's care that have intrinsic value to science, history, art or culture, except that it does not include botanical or zoological specimens loaned to a museum for scientific research purposes. [1985 c.580 §1; 2005 c.22 §256]

358.420 Status of property loaned to a museum; statute of limitations on recovery. (1) No action shall be brought against a museum to recover property on loan to the museum when more than 25 years have passed from the date of the last written contact between the lender and the museum.

(2) Property on loan to a museum shall be deemed to have been donated to the museum if no action is filed to recover the property within seven years after the museum gave notice of termination of the loan as provided in ORS 358.425 and 358.430.

(3) Property on loan to a museum shall not escheat to the state under ORS 112.055, but shall pass to the museum if no person takes under ORS 112.025 to 112.045. [1985 c.580 §2]

358.425 Notice of termination of loan; content. (1) A museum may give notice of termination of a loan of property at any time if the property was loaned to the museum for an indefinite term. If the property was loaned to the museum for a specified term, the museum may give notice of termination of the loan at any time after the expiration of the specified term.

(2) Notices given under this section shall contain:

(a) The name and address, if known, of the lender;

(b) The date of the loan;

(c) The name, address and telephone number of the appropriate office or official to be contacted at the museum for information regarding the loan; and

(d) Any other information deemed necessary by the museum. [1985 c.580 §3]

358.430 Procedure for giving notice; responsibility of owner. (1) To give notice of termination of a loan, the museum shall mail a notice to the lender at the most recent address of the lender as shown on the museum's records pertaining to the property on loan. If the museum has no address in its records, or the museum does not receive written proof of receipt of the mailed notice within 30 days of the date the notice was mailed, the museum shall publish notice at least once a week for three consecutive

weeks in a newspaper of general circulation in both the county in which the museum is located and the county of the lender's address, if any.

(2) For the purposes of this section, if the loan of property was made to a branch of a museum, the museum is located in the county where the branch is located. Otherwise, the museum is located in the county in which it has its principal place of business.

(3) It is the responsibility of the owner of property on loan to a museum to notify the museum promptly in writing of any change of address or change in ownership of the property. [1985 c.580 §4]

358.435 Status of title to acquired property. One who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to ORS 358.420. [1985 c.580 §5]

358.440 Notice to lenders. When a museum accepts a loan of property, the museum shall inform the lender in writing of the provisions of ORS 358.420 to 358.440. [1985 c.580 §6]

HERITAGE DISTRICTS

358.442 Definitions for ORS 358.442 to 358.474. As used in ORS 358.442 to 358.474, unless the context requires otherwise:

(1) "County" means the county in which the administrative office of the district is located.

(2) "County governing body" means the county court or board of county commissioners of the county.

(3) "District" means a heritage district formed under ORS 198.705 to 198.955 and 358.442 to 358.474.

(4) "District board" or "board" means the governing body of a district. [Formerly 198.973]

Note: 358.442 to 358.474 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.444 Creation of heritage district. (1) A heritage district may be created as provided in ORS 198.705 to 198.955 and 358.442 to 358.474.

(2) In addition to other required matters, a petition for formation of a district shall state the method of election of the board of the proposed district from among the methods described in ORS 358.456. [Formerly 198.974]

Note: See note under 358.442.

358.446 Formation of multicounty heritage district. (1) In addition to other methods for formation of a heritage district authorized under ORS 198.705 to 198.955 and 358.442 to 358.474, the governing body in each of two or more counties may initiate the formation of a multicounty district, to be located entirely within those counties, by an order setting forth:

(a) The intention of the county governing body to initiate the formation of a district and citing the principal Act.

(b) The name and boundaries of the proposed district.

(c) The date, time and place of a public hearing on the proposal.

(2) The orders issued under subsection (1) of this section must be substantially similar, set forth the same name and boundaries for the proposed district and be issued within a 90-day period.

(3) Each county governing body issuing an order under this section shall hold a public hearing on the proposal.

(4) After the public hearings held by each county governing body, further hearings and the election on the proposal, and election of board members, shall be conducted as provided by ORS 198.800 to 198.825 except that:

(a) Hearings shall be conducted by the governing body of the principal county involved in the proposed formation; and

(b) Notwithstanding ORS 198.810 (3), the governing body of the principal county shall provide by order for the holding of an election to submit to the electors registered within the proposed district the question of forming the district.

(5) As used in this section:

(a) "Principal Act" has the meaning given that term in ORS 198.705.

(b) "Principal county" has the meaning given that term in ORS 198.705. [Formerly 198.975]

Note: See note under 358.442.

358.448 Heritage district board. (1) The officers of a heritage district shall be a board of five members, to be elected by the electors of the district. The district board shall appoint a representative of the museums in the district to serve as secretary of the district.

(2) Any elector residing within the district shall be qualified to serve as a district board member. [Formerly 198.976]

Note: See note under 358.442.

358.450 Election of first heritage district board. (1) Five district board members shall be elected at the election for heritage district formation. Nominating petitions or declarations of candidacy described in ORS 249.031 shall be filed with the county governing body. The fee for a declaration of candidacy shall be as prescribed in ORS 255.235.

(2) If the effective date of the formation of the district occurs in an odd-numbered year, two district board members shall be elected for four-year terms and the other three district board members shall be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, two district board members shall be elected for three-year terms and the other three district board members shall be elected for one-year terms.

(3) Each district board member shall hold office until election and qualification of a successor. [Formerly 198.977]

Note: See note under 358.442.

358.452 Election of heritage district board members; initiative and referendum. (1) ORS chapter 255 governs the following:

(a) The nomination and election of heritage district board members.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [Formerly 198.978]

Note: See note under 358.442.

358.454 Result of election at large or by zone; oath of office; vacancy; term of office. (1) If two or three board members of a heritage district are to be elected at a regular district election at large, the candidates receiving the highest number of votes shall be elected. If one or more board members are to be elected by zone, the candidate receiving the highest number of votes in each zone shall be elected.

(2) Each district board member elected shall take an oath of office and shall hold office from July 1, next following election.

(3) The district board shall fill any vacancy on the board as provided in ORS 198.320.

(4) The term of a district board member is four years. [Formerly 198.979]

Note: See note under 358.442.

358.456 Choice of election at large or by zone. (1) Heritage district board members may be elected by one of the following methods or a combination thereof:

(a) By the electors of zones as nearly equal in population as possible according to the latest federal census.

(b) At large by position number by the electors of the district.

(2) Candidates for election from zones shall be nominated by electors of the zones. [Formerly 198.980]

Note: See note under 358.442.

358.458 Change in method of nominating and electing heritage district board members. (1) A heritage district may not change the method for nominating and electing board members, unless the change is approved by the electors of the district in an election held prior to the change in method. The district board:

(a) May order the election on its own resolution; or

(b) Shall order the election when a petition is filed as provided in this section.

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition in ORS 255.135 to 255.205.

(3) If the question proposes creation of zones or a change in the number of existing zones, the following requirements apply:

(a) The petition shall contain a map indicating the proposed zone boundaries. The map shall be attached to the cover sheet of the petition and may not exceed 14 inches by 17 inches in size.

(b) Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect in the ballot title may not exceed 150 words. The statement:

(A) Shall specify the method of election of board members from among the methods described in ORS 358.456. The statement also shall specify whether, in filling each position on the board, an elector of the district may sign a petition of nomination or vote for a candidate from any zone or only for a candidate from the zone in which the elector resides.

(B) Shall include a general description of the proposed boundaries of the zones, using streets and other generally recognized features.

(c) The order calling the election shall contain a map of the proposed zone boundaries and a metes and bounds or legal description of the proposed zone boundaries. The map and description shall be prepared by the county surveyor or county assessor and shall reflect any adjustment made in the boundaries under subsection (6) of this section.

(4) The map to be contained in the petition under subsection (3) of this section shall be prepared by the county surveyor or county assessor. The chief petitioners shall pay the county for the cost of preparing the map, as determined by the county surveyor or county assessor. The county clerk may not accept the prospective petition for filing until the chief petitioners have paid the amount due.

(5) Subsection (3) of this section does not apply if the question proposes abolition of all zones.

(6) Before submitting to election a question to which subsection (3) of this section applies, the district board shall adjust the proposed boundaries of the zones to make them as nearly equal in population as feasible according to the latest federal census. The district board shall amend the ballot title as necessary to reflect its adjustment of the boundaries.

(7) If the electors of the district approve the establishment of zones or a change in the number of existing zones, board members shall continue to serve until their terms of office expire. As vacancies occur, positions to be filled by nomination or election by zone shall be filled by electors who reside within zones that are not represented on the board. If more than one zone is not represented on the board when a vacancy occurs, the zone entitled to elect a board member shall be decided by lot. [Formerly 198.981]

Note: See note under 358.442.

358.460 Population within boundaries of zones in heritage districts. The board of a heritage district shall adjust the boundaries of zones established within a district as necessary to make them as nearly equal in population as is feasible according to the latest federal census. The district board also shall adjust boundaries of zones as necessary to reflect boundary changes of the district. [Formerly 198.982]

Note: See note under 358.442.

358.462 Filing boundary change with county assessor and Department of Revenue. For purposes of ad valorem taxation, a boundary change of a zone established within a heritage district must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [Formerly 198.983]

Note: See note under 358.442.

358.464 Duties of heritage district board. (1) The board of a heritage district shall be the governing body of the district and shall exercise all powers thereof.

(2) At its first meeting or as soon thereafter as may be practicable, the board shall choose one of its members as president. [Formerly 198.984]

Note: See note under 358.442.

358.466 Powers of heritage district board. The board of a heritage district has the power:

(1) To have and use a common seal.

(2) To sue and be sued in its name.

(3) To make and accept any and all contracts, deeds, leases, releases and documents of any kind that, in the judgment of the board, are necessary or proper to the exercise of any power of the district, and to direct the payment of all lawful claims or demands.

(4) To assess, levy and collect taxes to pay the costs of:

(a) Acquiring, constructing, reconstructing, altering, operating and maintaining heritage sites and structures;

(b) Acquiring by gift, purchase or other means, and preserving, historical objects, real and personal property of historical interest and records, artifacts, photographs, documents, material and data of historical importance;

(c) Establishing and maintaining programs for heritage societies within the district;

(d) Handling any lawful claims against the district; and

(e) Funding the operating expenses of the district.

(5) To employ all necessary agents and assistants.

(6) To call elections after the formation of the district.

(7) To enlarge the boundaries of the district as provided by ORS 198.705 to 198.955.

(8) Generally to do and perform any and all acts necessary and proper to the complete exercise and effect of any of the board's powers or the purposes for which the district was formed.

(9) Whenever authorized by the electors, to issue general obligation bonds of the district. However, the aggregate amount of general obligation bonds issued and outstanding at any one time may not exceed two and one-half percent of the real market value of all taxable property of the district, computed in accordance with ORS 308.207. [Formerly 198.985]

Note: See note under 358.442.

358.468 Heritage district tax levy. Each year, the board of a heritage district shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district. The total amount in dollars and cents may not exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the district computed in accordance with ORS 308.207. [Formerly 198.986]

Note: See note under 358.442.

358.470 Sinking fund for acquisition of historic real property and restoration of historic buildings or facilities. The board of a heritage district, by resolution duly adopted, may establish sinking funds for the

purpose of defraying the costs of acquiring historic real property and for restoration of historic buildings or facilities. A sinking fund may be created through the inclusion annually within the tax budget of the district of items representing the yearly installments to be credited to the fund. The amount of these items shall be collected and credited to the proper fund in the same manner in which taxes levied or revenues derived for other purposes for the district are collected and credited. None of the moneys in sinking funds shall be diverted or transferred to other funds, but if unexpended balances remain after disbursement of the funds for the purpose for which they were created, such balances, upon approval by resolution of the board, shall be transferred to the operation and maintenance fund of the district. [Formerly 198.987]

Note: See note under 358.442.

358.472 Legal counsel for heritage district. The board of a heritage district may call upon the attorney for the heritage district for advice as to any district business. The attorney for the heritage district shall give advice when called on for advice by the board. The board may at any time employ special counsel for any purpose. [Formerly 198.988]

Note: See note under 358.442.

358.474 Employees' retirement system. A heritage district may establish an employees' retirement system as provided for rural fire protection districts under ORS 478.355 to 478.370. [Formerly 198.989]

Note: See note under 358.442.

HISTORIC PROPERTY
(Policy and Definitions)

358.475 Policy. The Legislative Assembly hereby declares that it is in the best interest of the state to maintain, preserve and rehabilitate properties of Oregon historical significance. Historic preservation incentive programs provide a public benefit by encouraging preservation and appropriate rehabilitation of significant historic properties. These historically significant portions of the built environment contain the visual and intellectual record of our irreplaceable cultural heritage. They link us with our past traditions and values, establish standards and perspectives for measuring our present achievements and set goals for future accomplishments. To the extent that Oregon's historic preservation incentive programs encourage the preservation and appropriate rehabilitation of significant historical property, the programs create a positive partnership between the public good and private property that promotes economic development; tourism; energy and resource conservation; sustainability; neighborhood, downtown and rural revitalization; efficient use of public infrastructure; and civic pride in our shared historical and cultural foundations. [1975 c.514 §1; 1995 c.5 §1; 2001 c.540 §1; 2009 c.892 §1]

Note: Section 21, chapter 892, Oregon Laws 2009, provides:

Sec. 21. Section 7 of this 2009 Act [358.500], the amendments to ORS 93.040, 358.475, 358.480, 358.487, 358.490, 358.495, 358.499, 358.505, 358.509, 358.511, 358.515, 358.525, 358.528, 358.540, 358.541, 358.543 and 358.545 by sections 1 to 5 and 8 to 19 of this 2009 Act and the repeal of ORS 358.482, 358.526 and 358.535 by section 20 of this 2009 Act apply to tax years beginning on or after July 1, 2010. [2009 c.892 §21]

358.480 Definitions for ORS 358.480 to 358.545. As used in ORS 358.480 to 358.545, unless the context requires otherwise:

(1) "Americans with Disabilities Act" means the Americans with Disabilities Act of 1990 (P.L. 101-336), as amended.

(2) "Certify," "certified" and "certification" refer to the approval of historic property by the State Historic Preservation Officer for classification and special assessment under ORS 358.495.

(3) "Classified" and "classification" refer to the recognition of property by the State Historic Preservation Officer as historic property as defined in this section.

(4) "Commercial building" means improved property used in a trade or business or held for the production of income, not including residential rental property.

(5) "Condominium" means, with respect to property submitted to the provisions of ORS 100.005 to 100.625:

(a) The land, if any, whether fee simple, leasehold, easement or other interest or combination thereof, and whether contiguous or noncontiguous;

(b) Any buildings, improvements and structures on the property; and

(c) Any easements, rights and appurtenances belonging to the property.

(6) "Condominium unit" means a part of the property:

(a) That is described in ORS 100.020 (3);

(b) That is intended for any type of independent ownership; and

(c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

(7) "Condominium unit owner" means, except to the extent the declaration or bylaws provide otherwise, the person owning fee simple interest in a condominium unit, the holder of a vendee's interest in a condominium unit under a recorded installment contract of sale or, in the case of a leasehold condominium, the holder of the leasehold estate in a condominium unit.

(8) "Contributing resource" means a building, site or structure that adds to the historic significance of a historic property or historic district.

(9) "Developer" means, with respect to a condominium, a declarant who records a declaration under ORS 100.100 or a supplemental declaration under ORS 100.110 or any person who purchases an interest in a condominium from a declarant, successor declarant or subsequent developer for the primary purpose of resale.

(10) "Governing body" means the city or county legislative body having jurisdiction over the property that is the subject of an application for historic property special assessment under ORS 358.487 to 358.543.

(11) "Historic property" means real property that:

(a) Is currently listed, either individually or as a contributing resource, in the National Register of Historic Places established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665);

(b) Is currently not a contributing resource in a listed national register district or property but that, in the opinion of the State Historic Preservation Officer, is eligible to become a contributing resource as a result of a proposed preservation plan; or

(c) Has been determined to be eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer.

(12) "Historic rehabilitation standards" means the United States Secretary of the Interior's Standards for Rehabilitation as in effect on September 28, 2009.

(13) "Maintenance" means action taken to mitigate wear and deterioration of a historic property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

(14) "Owner" means a purchaser of real property under a recorded instrument of sale. In the case of multiple purchasers, "owner" may be a designee of the purchasers.

(15) "Preservation":

(a) Means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property, including but not limited to the ongoing maintenance and repair of historic materials.

(b) Does not include the extensive replacement of historic materials or new construction.

(16) "Preservation plan" means a written document, photographs and drawings that outline the work of preservation, maintenance and rehabilitation proposed for completion while the property is receiving historic property special assessment or completed not more than 24 months before the date of application for historic property special assessment.

(17) "Rehabilitation" means the process of repairing or altering a historic property in order to return the property to a state of utility in which an efficient contemporary use is possible, while preserving those portions and features of the property that are significant to the historic, architectural and cultural values of the property.

(18) "Seismic improvement" means construction or other measures that improve the seismic performance or structural stability of property or that reduce the potential for heavy structural damage to property or harm to people in or adjacent to the property in the event of an earthquake.

(19) "Sustainability" means, with respect to historic property, fulfilling present and future needs by using, without harming, renewable resources and unique human and environmental systems of a site, including air, water, land, energy, human ecology and other sustainable systems. [1975 c.514 §2; 1983 c.720 §1; 2001 c.540 §2; 2009 c.892 §2]

Note: See note under 358.475.

358.482 [1995 c.693 §2; 2001 c.540 §3; repealed by 2009 c.892 §20]

358.485 [1975 c.514 §3; 1983 c.720 §3; 1989 c.904 §54; 1995 c.693 §15; repealed by 2001 c.540 §25]

(Application)

358.487 Application for classification and special assessment as historic property; term of assessment; fee. (1) An owner of historic property desiring classification and special assessment under ORS 358.487 to 358.543 for the property shall apply to the State Historic Preservation Officer on forms approved by the officer.

(2) The application must include or be accompanied by:

(a) A preservation plan as defined in ORS 358.480. The preservation plan must commit the applicant to expend, within the first five years for which historic property special assessment is granted, an amount not less than 10 percent of the historic property's real market value determined as of the assessment date for the first tax year to which the historic property special assessment applies. The focus of the preservation plan must be on exterior features, especially those visible from a public way, and structural members of the property. The treatment of significant

interior features, as determined by the State Historic Preservation Officer, may also be included in the plan, but unless specifically required by the officer, work in bathrooms, kitchens, basements and attics is not included in the preservation plan. Work proposed in the plan must meet the historic rehabilitation standards.

(b) Payment of an application fee equal to:

(A) One-tenth of one percent of the assessed value of the property, as of the assessment date, for the year in which application is made; or

(B) For property that does not have an assessed value, one-tenth of one percent of the product of the real market value of the property for the tax year in which the application is made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(c) A copy of the property's current tax statement.

(d) Proof that the owner has property insurance on the property in an amount equal to the replacement value of the property.

(e) The written consent of the owner to the viewing of the property by the State Historic Preservation Officer.

(3) The application must be made before April 1 of the assessment year for which classification and special assessment as historic property are desired.

(4)(a) Property must be classified as historic property in order to be certified for historic property special assessment.

(b) Notwithstanding paragraph (a) of this subsection, property may be certified for historic property special assessment upon a determination of eligibility by the State Historic Preservation Officer under ORS 358.480 (11)(b) or (c). Property certified under this paragraph must become listed in the National Register of Historic Places within two years of certification under ORS 358.490.

(5) Classification and special assessment pursuant to an application made under this section are granted for 10 consecutive property tax years, starting in the tax year beginning on July 1 of the assessment year described in subsection (3) of this section.

(6) The application fee required under subsection (2) of this section shall be deposited in the State Parks and Recreation Department Fund for use by the State Parks and Recreation Director or for transfer to the Oregon Property Management Account established under ORS 358.680 to 358.690, upon the advice of the State Advisory Committee on Historic Preservation. The application fee becomes nonrefundable after certification as described in ORS 358.495. [1995 c.693 §3; 1997 c.541 §427; 2001 c.540 §4; 2005 c.22 §257; 2007 c.718 §1; 2009 c.892 §3]

Note: See note under 358.475.

Note: Section 4 (2), chapter 718, Oregon Laws 2007, provides:

Sec. 4. (2) Nothing in the amendments to ORS 358.487, 358.540 and 358.541 by sections 1 to 3 of this 2007 Act affects the status of property that is classified as historic property on the effective date of this 2007 Act [September 27, 2007]. Such property may continue to receive special assessment under ORS 358.480 to 358.545 until the completion of the 15-year term that is in effect on the effective date of this 2007 Act. [2007 c.718 §4(2)]

358.490 Review and approval of application; withdrawal; amendment of plan. (1)(a) After an application is submitted under ORS 358.487, the State Historic Preservation Officer shall first review the application to determine whether the application meets the requirements of ORS 358.487 and may view the premises.

(b) If the officer determines that the application does not meet the requirements of ORS 358.487, the officer shall return the application with an explanation for the nonacceptance.

(c) If the officer determines that the application is complete, the officer shall mail or otherwise transmit copies of the application to the appropriate county assessor, local landmark commission and governing body.

(2) Within 30 days from the date the State Historic Preservation Officer transmits the copy of the application under subsection (1) of this section, the county assessor shall review the application for accuracy and completeness of description and other matters within the expertise of the county assessor, and shall make recommendations regarding the validity and appropriateness of the application to the officer.

(3) Within 30 days from the date the State Historic Preservation Officer transmits the copy of the application under subsection (1) of this section, the governing body shall review the application for matters relating to public benefit and shall make recommendations regarding the classification to the officer.

(4) During the review process of each application, the State Historic Preservation Officer shall consider the county assessor's and governing body's recommendations submitted under subsections (2) and (3) of this section.

(5)(a) After receiving recommendations from the county assessor and governing body under subsections (2) and (3) of this section, the State Historic Preservation Officer shall

approve or deny the application or approve the application with conditions.

(b) The officer may approve the application with respect to only part of the property that is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the application.

(c) The officer may not disapprove the application solely because of the potential loss of revenue that might result from granting the application.

(6) Property classified as historic property under ORS 358.487 to 358.543 is entitled to any other exemption or special assessment provided by law.

(7) A preservation plan that has been approved by the State Historic Preservation Officer may be amended from time to time, either at the request of the owner or at the request of the State Historic Preservation Officer. The amendments may be approved, approved in part or disapproved by the State Historic Preservation Officer. To the extent the amendments are approved, amendments shall become part of the preservation plan that must be carried out in order that the property not be disqualified as historic property. [1975 c.514 §4; 1983 c.720 §4; 1995 c.5 §7; 1995 c.693 §4; 2001 c.540 §5; 2009 c.892 §4]

Note: See note under 358.475.

358.495 Notice of approval or disapproval; certification and plaque; review, hearing and final order. (1)(a) Immediately following approval or disapproval of an application under ORS 358.490, the State Historic Preservation Officer shall notify the county assessor, the governing body and the applicant of the decision in writing not later than July 1 of the tax year for which classification and special assessment are first desired.

(b) An application not denied on or before July 1 pursuant to paragraph (a) of this subsection is deemed approved, and the property that is the subject of the application is historic property that qualifies under ORS 358.487 to 358.543.

(2) If the State Historic Preservation Officer determines that the historic property qualifies under ORS 358.487 to 358.543, the officer shall, not later than July 1 of the tax year for which the property is first certified for historic property special assessment:

(a) Notify the local landmark commission that the property is certified.

(b) Certify the property's qualification in writing and file a copy of the certificate with the county assessor and the governing body. The certificate shall state the facts and list any condition on which the approval is based.

(c) Record a notice with the county clerk in the county in which the certified historic property is located stating that the property is certified for historic property special assessment.

(d) Provide the owner of the property with a plaque. The owner shall install the plaque on the property in a location that is visible from a public right of way.

(3) The county assessor shall assess historic property certified under this section on the basis provided in ORS 358.505, and each year the historic property is classified and assessed under ORS 358.505 shall enter on the assessment and tax roll that the property is being specially assessed as historic property and is subject to potential additional taxes as provided in ORS 358.525 by adding the notation "historic property (potential additional tax)."

(4) If the State Historic Preservation Officer determines that the property does not qualify for classification and assessment under ORS 358.487 to 358.543, the State Historic Preservation Officer shall give written notice of the denial to the applicant. The notice shall state the reasons for the denial.

(5)(a) Any owner, governing body or county assessor affected by a determination of the State Historic Preservation Officer made under ORS 358.487 to 358.543 may request review of the determination:

(A) Pursuant to an appeal process established by the local governing body, if any; or

(B) By the Historic Assessment Review Committee.

(b) After the review described in paragraph (a) of this subsection, any party may request a contested case hearing of the decision according to the provisions of ORS chapter 183. The administrative law judge presiding at the contested case hearing shall determine the final order in the case. [1975 c.514 §5; 1983 c.720 §5; 1995 c.5 §8; 1995 c.693 §5; 1997 c.541 §428; 2001 c.540 §6; 2003 c.75 §87; 2009 c.892 §5]

Note: See note under 358.475.

358.499 Limitations on classification and special assessment as historic property. (1) Property first classified and specially assessed as historic property for a tax year beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and removed from special assessment as provided under ORS 358.487 to 358.543 as those sections were in existence and in effect on December 31, 1992.

(2) Property may be classified and specially assessed under ORS 358.487 to 358.543 pursuant to application filed under ORS 358.487 on or after September 9, 1995, and first applicable for the tax year 1996-1997 or any tax year thereafter.

(3) Property may not be classified and specially assessed pursuant to application filed under ORS 358.487 or 358.540 if the application is filed on or after July 1, 2020. [1995 c.693 §19; 2001 c.540 §7; 2009 c.892 §18]

Note: See note under 358.475.

Note: 358.499 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Reports)

358.500 Reporting requirement; work approval. (1) The owner of property certified for special assessment as historic property under ORS 358.490 shall submit written progress reports concerning the preservation plan to the State Historic Preservation Officer in a form prescribed by the officer on or before December 31 of the third, sixth and ninth years of the historic property special assessment period under ORS 358.487 to 358.543.

(2) In addition to the reports required under subsection (1) of this section, at the end of the first five years for which historic property special assessment is granted, the owner shall submit a report demonstrating compliance with the expenditure commitment under the preservation plan as described in ORS 358.487 (2)(a).

(3)(a) The State Historic Preservation Officer is at all times authorized to demand and receive reports from owners of property classified and specially assessed as historic property under ORS 358.487 to 358.543 as to the continued qualification of the property for historic property classification and special assessment. The content of reports and times for reporting under this subsection shall be determined by the officer. If the owner fails, after 30 days' written notice by mail, return receipt requested, to comply with the officer's demand, the officer shall immediately notify the assessor and the assessor shall withdraw the property from special assessment and apply the penalties provided by ORS 358.525.

(b) The State Historic Preservation Officer may conduct on-site inspections of historic property granted special assessment, with or without cause, upon 30 days' notice.

(4)(a) Before starting any work that is described in a preservation plan or that affects historic features of property certified as historic property pursuant to this chapter, the owner of the property must apply for and receive written approval:

(A) From the local governing body if:

(i) The governing body has a historic preservation ordinance and review process that has been approved by the State Historic Preservation Officer and under which the historic property is already regulated;

(ii) The proposed work requires historic review by the governing body's historic preservation ordinance and review process; and

(iii) The governing body has not requested that approval of work pursuant to this section be handled by the State Historic Preservation Officer; or

(B) If the conditions in subparagraph (A) of this paragraph have not been met, from the State Historic Preservation Officer.

(b) All work must meet the historic rehabilitation standards.

(5) If the governing body's approval is required under subsection (4) of this section, the governing body shall notify the State Historic Preservation Officer of the proposed work. The governing body shall allow the officer at least 14 days to comment on the proposed work before making a decision on the application. [2009 c.892 §7]

Note: See note under 358.475.

358.502 [1957 c.196 §1; repealed by 1957 c.196 §10]

358.504 [1957 c.196 §3; repealed by 1957 c.196 §10]

(Benefit Computation)

358.505 Determination of specially assessed value, maximum assessed value and assessed value of historic property; appeals. (1)(a) Except as provided in paragraphs (b) and (c) of this subsection, for property certified for special assessment as historic property under ORS 358.490, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the assessed value of the property at the time application was made under ORS 358.487.

(b) If the property certified for special assessment as historic property was exempt or specially assessed at the time the application was made, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax year in which the application was made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(c) If the property certified for special assessment as historic property is a condominium unit being assessed upon initial sale by the developer, the county assessor shall for the tax years of the remaining term of historic property special assessment list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax

year in which the initial sale took place multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(d) For property certified under ORS 358.490 for a second term of special assessment as historic property under ORS 358.540, the county assessor shall, for 10 consecutive tax years after the date of the filing of the application under ORS 358.487 for the second term, list on the assessment and tax roll a specially assessed value that equals the real market value of the property for the assessment year in which the application is made.

(2)(a) Notwithstanding ORS 308.149 (2), for the first tax year of an initial or second 10-year period of historic property special assessment, the maximum assessed value of property subject to historic property special assessment shall equal the specially assessed value of the property under subsection (1) of this section multiplied by the ratio, not greater than 1.00, of the maximum assessed value the property would have had if the property were not specially assessed over the real market value of the property.

(b) For each tax year after the first tax year during which the property is subject to special assessment as historic property, the property's maximum assessed value equals 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(3) The assessed value of property that is classified as historic property for the tax year shall equal the lesser of:

(a) The property's specially assessed value as determined under subsection (1) of this section;

(b) The property's maximum assessed value as determined under subsection (2) of this section; or

(c) The property's real market value as of the assessment date for the tax year.

(4) The entitlement of property to the special assessment provisions of this section shall be determined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that year shall continue as provided in this section.

(5) Assessed value, as defined and determined under ORS 308.146, shall be determined for property classified as historic property by the county assessor each year. The assessed value so determined for any year shall be subject to appeal to the county board of property tax appeals within the time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the Oregon Tax Court and to the Oregon Supreme Court within the time and in the manner provided for appeals of value determination for purposes of ad valorem property taxation. [1975 c.514 §6; 1981 c.804 §97; 1983 c.720 §6; 1985 c.565 §63; 1991 c.459 §325; 1995 c.5 §9; 1995 c.650 §80; 1995 c.693 §6; 1997 c.541 §§429,430; 2001 c.540 §8; 2009 c.892 §8]

Note: See note under 358.475.

358.506 [1957 c.196 §4; repealed by 1957 c.196 §10]

358.507 [1997 c.541 §433; repealed by 2001 c.540 §26]

358.508 [1957 c.196 §5; repealed by 1957 c.196 §10]

(Review)

358.509 Review of continued qualification of property by State Historic Preservation Officer. If the county assessor, local landmark commission or governing body has reason to believe that property classified as historic property is not being maintained, rehabilitated or preserved as required under the preservation plan approved for the property, as amended, or as required under rules established by the Department of Revenue or the State Historic Preservation Officer, or otherwise no longer qualifies for classification and special assessment as historic property, the county assessor, local landmark commission or governing body shall request the State Historic Preservation Officer to determine if the property continues to qualify. The request shall be in writing and state the reasons why the continuing qualification is questioned. Upon receipt of the request, the State Historic Preservation Officer may initiate a continuing qualification review. If a review is initiated, the State Historic Preservation Officer or designee of the officer shall inspect the property and may take whatever steps are necessary to determine if the property continues to qualify for special assessment. The State Historic Preservation Officer shall notify the county assessor of the determination made pursuant to the request within 60 days after the request is received. [1979 c.346 §4; 1983 c.720 §7; 1995 c.5 §10; 1995 c.693 §7; 2001 c.540 §9; 2009 c.892 §14]

Note: See note under 358.475.

358.510 [Repealed by 1957 c.196 §2]

358.511 Historic Assessment Review Committee. (1) There is established an Historic Assessment Review Committee consisting of five members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. A member is eligible for reappointment. A member whose term has expired shall continue to serve until a successor has been appointed.

(3) Appointments to the review committee shall be based on representation of interests of the county assessors, the historic preservation community, the State Advisory

Committee on Historic Preservation, the development community and local government.

(4) A majority of the members of the review committee constitutes a quorum for the transaction of business. [1995 c.693 §16; 2001 c.540 §10; 2009 c.892 §15]

Note: See note under 358.475.

Note: 358.511 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.512 [1957 c.196 §6; repealed by 1957 c.196 §10]

358.514 [1957 c.196 §7; repealed by 1957 c.196 §10]

(Disqualification)

358.515 Loss of special assessment; notice. (1) When property has once been classified and assessed as historic property pursuant to application filed under ORS 358.487, it remains classified and is granted the special assessment provided by ORS 358.505 until it becomes disqualified for classification and special assessment by:

(a) Expiration of an initial or second 10-year period of special assessment.

(b) Sale or transfer to a governmental or nonprofit entity that is exempt from property taxation.

(c) The destruction or substantial alteration of the property by acts of nature or other events for which the owner is not responsible.

(d) Initial sale of a condominium as provided in ORS 358.543 (3)(b).

(e) Written notice by the taxpayer to the assessor to remove the special assessment.

(f) The owner's failure to maintain, preserve or rehabilitate the property or to comply with the expenditure commitment in accordance with the preservation plan or the historic rehabilitation standards.

(g) The owner's failure to submit required reports.

(h) Failure of the property to be listed in the National Register of Historic Places either individually or as a contributing resource in a listed historic district or property within two years of certification as required under ORS 358.487 (4)(b).

(i) The owner's failure to obtain, or the lapse of, the property insurance required under ORS 358.487 (2)(d).

(j) The owner's demolition of the property.

(k) The owner's substantial alteration of the property in a way that does not meet the historic rehabilitation standards.

(2)(a) When, for any reason, the property or any portion ceases to qualify as historic property, the owner at the time of change shall notify the assessor and the State Historic Preservation Officer of the change prior to the next January 1 assessment date.

(b) The officer makes final determinations of whether historic property is disqualified for special assessment under ORS 358.487 to 358.543.

(3) Except as provided by subsection (1)(a) of this section, disqualification does not constitute completion of a 10-year period of special assessment certified under ORS 358.490 or preclude a property's future special assessment under ORS 358.487 to 358.543.

(4) The State Historic Preservation Officer shall notify the owner in writing before July 1 of the 10th and final year for which property is certified for special assessment under ORS 358.490 that the special assessment is due to expire and shall outline the options available to the owner upon disqualification upon expiration of an initial or second 10-year period of special assessment, as applicable.

(5) Upon expiration of an initial or second 10-year period of special assessment, the State Historic Preservation Officer shall notify the owner, the governing body and the county assessor that the term has expired. [1975 c.514 §7; 1979 c.346 §1; 1983 c.720 §8; 1991 c.459 §326; 1995 c.5 §11; 1995 c.693 §8; 1997 c.541 §434; 2001 c.540 §11; 2005 c.549 §3; 2009 c.892 §9]

Note: See note under 358.475.

358.516 [1957 c.196 §10; repealed by 1957 c.196 §10]

358.520 [Renumbered 390.220]

(Penalty)

358.525 Imposition of additional taxes upon disqualification; exceptions. (1) Except as provided in subsection (4) of this section, whenever property that has received special assessment as historic property under ORS 358.487 to 358.543 becomes disqualified for assessment as provided in ORS 358.515, there is added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of real property tax:

(a) Additional taxes equal to the difference between the taxes assessed against the property and the taxes that would otherwise have been assessed against the property for each of the last 10 years (or a lesser number of years corresponding to the years of assessment as historic property applicable to the property) as of January 1 of the assessment year for which the property was disqualified for special assessment;

(b) An amount equal to the sum of the interest on each year's additional taxes com-

puted under ORS 311.505 from November 15 of the tax year for which back taxes are being added to July 1 of the tax year of disqualification; and

(c) A penalty in the amount of 15 percent of the amount computed under paragraph (a) of this subsection.

(2) Whenever property that has received special assessment as historic property under ORS 358.505 becomes disqualified for assessment and the notice required by ORS 358.515 (2) is not given, the assessor shall determine the date that the notice should have been given, shall notify the owner thereof and, notwithstanding ORS 311.235, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, in full payment of all taxes and penalties accruing from the disqualification, the sum of the following:

(a) Additional taxes equal to the difference between the total amount of taxes that would have been due on the property for each year, not to exceed the last 10 years, in which special assessment under ORS 358.505 was in effect for the property (even though erroneously) and the taxes that would have been due had special assessment not been in effect;

(b) An amount equal to the sum of the interest on each year's additional taxes computed under ORS 311.505 from November 15 of the tax year for which additional taxes are being added to July 1 of the tax year of disqualification; and

(c) An additional penalty of 15 percent of the amount in paragraph (a) of this subsection.

(3) Prior to adding to the tax extended against the property on the next general property tax roll any additional amount imposed by subsection (1) or (2) of this section, in the case of disqualification pursuant to ORS 358.515 (1)(f) to (k), the assessor shall notify the owner of the property by mail, return receipt requested, of the disqualification.

(4) Additional tax or penalty may not be imposed under subsection (1) or (2) of this section in the case of property disqualified pursuant to:

(a) ORS 358.515 (1)(a), (b), (c) or (d); or

(b) ORS 358.515 (1)(e) if the written notice is accompanied by proof that the owner has complied with the expenditure commitment under the preservation plan as described in ORS 358.487 (2)(a).

(5) The amount determined to be due under subsection (1) or (2) of this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(6) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1975 c.514 §8; 1979 c.350 §18; 1983 c.720 §9; 1991 c.459 §327; 1995 c.5 §12; 1995 c.693 §9; 1997 c.541 §435; 2001 c.540 §12; 2009 c.892 §10]

Note: See note under 358.475.

358.526 [2001 c.540 §12b; repealed by 2009 c.892 §20]

(Change of Classification)

358.528 Application to change classification as historic property; withdrawal. When any property has been classified and specially assessed as historic property under ORS 358.487 to 358.543 and the owner or other qualified person applies for a change in the classification under another special assessment program, the applicant shall have 30 days thereafter within which to withdraw the application, by giving written notice to the public official or agency to whom the applicant applied for the change in classification. If no notice of withdrawal is given by the applicant, the application shall be acted upon and the change in classification made, as otherwise provided by law. [1999 c.314 §48; 2001 c.540 §13; 2009 c.892 §16]

Note: See note under 358.475.

358.530 [Repealed by 1959 c.242 §1]

358.535 [1975 c.514 §9; 1995 c.5 §13; 1995 c.693 §10; 2001 c.540 §14; repealed by 2009 c.892 §20]

(Second Term)

358.540 Requirements for second term of historic property special assessment. (1) Property classified as historic property under ORS 358.487 to 358.543 is entitled to any other exemption or special assessment provided by law.

(2) Property that has been certified for special assessment under ORS 358.490 and received special assessment under ORS 358.505 for 10 years, at the completion of the 10-year term, is disqualified from historic property special assessment.

(3)(a) Notwithstanding subsection (2) of this section, following completion of the initial 10-year period of historic property classification and disqualification under subsection (2) of this section, the owner of property classified as historic property may reapply under ORS 358.487 for one additional 10-year period of special assessment under ORS 358.487 to 358.543.

(b) Following completion of the second 10-year term of special assessment, the historic property is disqualified from historic property special assessment and is not again

eligible for special assessment under ORS 358.487 to 358.543.

(4) An application filed under subsection (3) of this section must be filed in the manner provided under ORS 358.487 and be accompanied by a preservation plan detailing:

(a) Improvements to the historic property that:

(A) Promote compliance with the Americans with Disabilities Act;

(B) Will result in seismic improvement; or

(C) Will result in improvements in energy conservation or sustainability;

(b) The costs associated with the improvements, which costs are in an amount not less than 10 percent of the historic property's real market value determined as of the date of the application filed under subsection (3) of this section; and

(c) A schedule of the dates on which work on the improvements will be begun and completed.

(5)(a) An application filed under subsection (3) of this section may be approved only upon a finding by the State Historic Preservation Officer that the preservation plan submitted with the application pursuant to subsection (4) of this section will, if implemented, result in a significant investment in the historic property that promotes compliance with Americans with Disabilities Act or that results in seismic improvements or improvements in energy conservation or sustainability to the property.

(b) For residential property, an application filed under subsection (3) of this section that is otherwise in compliance with the application requirements may be approved only if a second term of historic property classification and special assessment is not prohibited under ORS 358.541.

(6) An application for a second 10-year period of special assessment as historical property shall be certified in accordance with ORS 358.490.

(7) A determination under ORS 358.490 with respect to an application for a second 10-year period of special assessment as historical property is subject to the notice, certification and filing requirements and review rights described in ORS 358.495.

(8) The owner of property certified for a second 10-year period of special assessment under this section is subject to the reporting requirements under ORS 358.500.

(9) Property certified for a second 10-year period of special assessment under this section is subject to penalties upon disqualification as provided by ORS 358.525. [1975 c.514 §10; 1983 c.720 §10; 1995 c.5 §14; 1995 c.693 §11; 2001 c.540 §15; 2005 c.549 §1; 2007 c.718 §2; 2009 c.892 §11]

Note: See note under 358.475.

Note: See second note under 358.487.

Note: Section 33, chapter 579, Oregon Laws 1999, provides:

Sec. 33. (1) The owner of a property receiving special assessment under ORS 358.475 to 358.545 (1999 Edition) who purchased the property within the five-year period immediately prior to the effective date of this 1999 Act [October 23, 1999] may file a reapplication under ORS 358.540 within one year following the effective date of this 1999 Act for classification and special assessment of the property as historic property for an additional 15-year period under ORS 358.540.

(2) Notwithstanding ORS 358.505 and 358.507 (1999 Edition), following approval of the reapplication by the State Historic Preservation Officer, the property shall be assessed for the additional 15-year period of historic property classification at the assessed value of the property at the time the property was purchased, as determined under ORS 358.475 to 358.545 (1995 Edition).

(3) Notwithstanding subsection (2) of this section, for any tax year within the additional 15-year period, property shall be assessed at a lesser value than the assessed value determined under subsection (2) of this section if the lesser value is required pursuant to section 11, Article XI of the Oregon Constitution. [1999 c.579 §33]

358.541 City or county prohibition of second term. (1) Residential property may not qualify for a second term of classification and special assessment as historic property under this section:

(a) If the property is located within a city, the governing body of which has adopted a resolution or ordinance prohibiting a second term of historic property classification and special assessment for residential property; or

(b) If the property is located within unincorporated territory of a county, the governing body of which has adopted a resolution or ordinance prohibiting a second term of historic property classification and special assessment for residential property.

(2) The city or county prohibiting a second term of historic property classification and special assessment for residential property shall send a copy of the prohibiting resolution or ordinance to the State Historic Preservation Officer. [2005 c.549 §2; 2007 c.718 §3; 2009 c.892 §12]

Note: See note under 358.475.

Note: See second note under 358.487.

Note: 358.541 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Miscellaneous)

358.543 Assessment of new construction and additions; condominiums. (1)(a) The value of new construction or additions to historic properties certified for special assessment under ORS 358.487 to 358.543 is as-

sessed in the same manner as the original historic property under ORS 358.505 if the additions or new construction:

(A) Were included in the preservation plan approved pursuant to ORS 358.540; and

(B) Meet the historic rehabilitation standards as defined in ORS 358.480.

(b) Notwithstanding paragraph (a) of this subsection, additions or new construction are not assessed under ORS 358.505 if the local governing body or the State Historic Preservation Officer, in accordance with ORS 358.500 (4), determines that the additions or improvements are:

(A) Sited on the property in a manner more suitable for primary historic buildings in the area;

(B) Of a size or scale more appropriate to primary historic buildings in the area; or

(C) Independent structures as determined by use or ownership.

(c) If additions or new construction described in paragraph (b) are disqualified for any reason listed in ORS 358.515 (1), the entire property may be disqualified for historic property special assessment.

(2)(a) Buildings divided into condominiums are eligible for special assessment as historic property under ORS 358.505 only in their entirety on the basis of one application pursuant to ORS 358.487.

(b) No individual condominium unit owner may opt out at the time of certification pursuant to this chapter or seek disqualification once the building has been certified. At the time application is made, a letter to this effect must be delivered to each condominium unit owner.

(3)(a) When a building that is certified as historic property is divided into condominium units, the assessor shall calculate the specially assessed value of the entire building pursuant to ORS 358.505 (1)(a) or (b), as applicable.

(b) Initial sale of a condominium unit by the developer disqualifies the unit within the meaning of section 11 (1)(c)(E), Article XI of the Oregon Constitution.

(c) Upon disqualification due to initial sale, the condominium unit is requalified without further application for the remaining term of the current 10-year period of historic property special assessment.

(d) Upon requalification after initial sale, the assessor shall calculate the specially assessed value of the condominium unit pursuant to ORS 358.505 (1)(c).

(e) Upon sale of individual condominium units, a notice of the building's classification and special assessment as historic property in its entirety must be attached to each deed. Recording fees for all condominium units must be paid by the condominium association.

(4) If the building qualifies for a second 10-year period under ORS 358.540, each condominium unit is separately assessed pursuant to the applicable provisions of ORS 358.505. [1983 c.720 §§12,13; 1991 c.459 §329; 1995 c.5 §15; 1995 c.693 §12; 1999 c.314 §87; 2001 c.540 §16; 2007 c.70 §151; 2009 c.892 §13]

Note: See note under 358.475.

358.545 Rules. The Director of the Department of Revenue and the State Historic Preservation Officer shall adopt rules within their areas of expertise as necessary to carry out the purposes of special assessment under ORS 358.487 to 358.543. [1975 c.514 §11; 1995 c.5 §16; 1995 c.693 §13; 2001 c.540 §17; 2009 c.892 §17]

Note: See note under 358.475.

358.565 State Historic Preservation Officer. (1) The Governor shall designate a State Historic Preservation Officer who shall serve at the pleasure of the Governor. In case of vacancy, the Governor shall designate a successor.

(2) The State Historic Preservation Officer shall appoint a staff of persons well qualified in history, architectural history, architecture, archaeology and education as technical assistants and analysts.

(3) In addition to the powers and duties assigned to the State Historic Preservation Officer under ORS 358.480 to 358.545, the State Historic Preservation Officer shall perform whatever functions as are authorized by law. [1975 c.514 §12; 1983 c.268 §2; 2001 c.540 §18]

OREGON HERITAGE COMMISSION

358.570 Oregon Heritage Commission; establishment; terms of commission members. (1) To assure the conservation and development of Oregon's heritage there is established in the State Parks and Recreation Department the Oregon Heritage Commission consisting of nine voting members appointed by the Governor and eight ex officio members as described in ORS 358.575.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the commission is entitled to actual and necessary travel and other expenses as provided in ORS 292.495. [1995 c.428 §1; 1997 c.112 §1]

Note: 358.570, 358.575, 358.580 and 358.585 to 358.595 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.575 Commission membership. (1) The voting members of the Oregon Heritage Commission shall be composed of representatives of heritage interests, including Indian tribes with federal recognition, that reflect the cultural and geographic diversity of this state as well as the heritage interests reflected in community institutions, libraries, museums, architecture, archaeology and historic preservation.

(2) The ex officio members of the commission shall be designees of the following:

(a) The Department of Land Conservation and Development;

(b) The Trustees of the State Library;

(c) The State Board of Higher Education;

(d) The Oregon Business Development Department;

(e) The Department of Education;

(f) The Executive Director of the Oregon Historical Society;

(g) The State Archivist; and

(h) The State Historic Preservation Officer. [1995 c.428 §3; 1997 c.112 §2]

Note: See note under 358.570.

358.580 Selection of chairperson; quorum; meetings. (1) The Oregon Heritage Commission shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines.

(2) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every three months at a place, day and hour determined by the commission. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the commission. [1995 c.428 §4]

Note: See note under 358.570.

358.583 Purpose and duties of commission relating to museums. (1) As used in this section, "museum" means a public institution or private nonprofit Oregon corporation primarily devoted to the acquisition and public exhibition of specimens, artifacts, articles, documents and other items that relate to history, anthropology, archaeology, science or art and that have historical significance.

(2) The purpose of this section is to direct the Oregon Heritage Commission to assist in projects for the collection and management of heritage collections and for heritage-related tourism and to assist in projects related to the heritage aspects of education and interpretation.

(3) In addition to the other duties of the commission, the commission shall:

(a) Make biennial competitive grants to museums for projects related to Oregon's heritage, including but not limited to projects involving the collection and management of heritage collections, the promotion of heritage-related tourism and the provision of education and other interpretations related to heritage;

(b) With the assistance of the Oregon Historical Society and the Oregon Museums Association, determine the eligibility of a museum for a competitive grant;

(c) Advise, upon request, museum governing bodies, county governing bodies, city governing bodies and interested citizens of the availability of competitive grants; and

(d) Request, with the advice of the Oregon Historical Society and the Oregon Museums Association, rules for the State Parks and Recreation Commission to adopt under ORS 358.585 for the purpose of carrying out the grant program. [Formerly 358.730]

Note: 358.583 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.585 Rules. In accordance with applicable provisions of ORS chapter 183, the State Parks and Recreation Commission may adopt rules, as requested by the Oregon Heritage Commission, for the administration of the laws that the commissions are charged with administering. [1995 c.428 §5]

Note: See note under 358.570.

358.590 Advisory and technical committees; reimbursement of commission member expenses; solicitation of funds. (1) To aid and advise the Oregon Heritage Commission in the performance of its functions, the commission may establish such advisory and technical committees as it considers necessary. These committees may be continuing or temporary. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members.

(2) Members of the committees are not entitled to compensation, but in the discretion of the commission may be reimbursed from funds available to the commission for actual and necessary travel and other expenses incurred by them in the performance

of their official duties, subject to ORS 292.495.

(3) The commission may raise and expend funds, including grants from federal, state and private sources. [1995 c.428 §6]

Note: See note under 358.570.

358.595 Coordination of heritage activities; Oregon Heritage Plan; inventory of state cultural properties. The Oregon Heritage Commission is designated the primary agency for coordination of heritage activities and shall coordinate its activities with public and private organizations that express an interest in the heritage of Oregon. The commission shall:

(1) Prepare and adopt an Oregon Heritage Plan to address coordination for the identification, curation, restoration and interpretation of heritage resources.

(2) Increase efficiency and avoid duplication among the various interest groups that seek to preserve heritage resources.

(3) Coordinate a comprehensive inventory of state-owned cultural properties and make the inventory available to the public.

(4) In conjunction with the Oregon Business Development Department encourage tourism activities relating to heritage resources.

(5) Coordinate statewide anniversary celebrations.

(6) Coordinate statewide celebrations of Asian American Heritage Month. [1995 c.428 §7; 1999 c.690 §3; 2003 c.244 §3; 2005 c.233 §3]

Note: See note under 358.570.

HISTORIC PRESERVATION PLAN

358.605 Legislative findings. (1) The Legislative Assembly declares that the cultural heritage of Oregon is one of the state's most valuable and important assets; that the public has an interest in the preservation and management of all antiquities, historic and prehistoric ruins, sites, structures, objects, districts, buildings and similar places and things for their scientific and historic information and cultural and economic value; and that the neglect, desecration and destruction of cultural sites, structures, places and objects result in an irreplaceable loss to the public.

(2) The Legislative Assembly finds that the preservation and rehabilitation of historic resources are of prime importance as a prime attraction for all visitors; that they help attract new industry by being an influence in business relocation decisions; and that rehabilitation projects are labor intensive, with subsequent benefits of payroll, energy savings and are important to the revitalization of deteriorating neighborhoods and downtowns.

(3) It is, therefore, the purpose of this state to identify, foster, encourage and develop the preservation, management and enhancement of structures, sites and objects of cultural significance within the state in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966 (P.L. 89-665; 16 U.S.C. 470). [1983 c.268 §1]

358.610 [1953 c.475 §1; renumbered 390.410]

358.612 Duties of State Historic Preservation Officer. The State Historic Preservation Officer:

(1) Shall conduct or cause to have conducted a comprehensive, statewide survey to identify districts, sites, buildings, structures and objects that are potentially significant in Oregon history, prehistory, architecture, archaeology and culture;

(2) Shall prepare and implement a comprehensive statewide historic preservation plan to assist local governments in developing their preservation programs and participate in the national program;

(3) Shall maintain a statewide inventory of historic properties;

(4) Shall create a mechanism for an Oregon State Register of Historic Properties in which to record significant historic properties with the State Advisory Committee on Historic Preservation developing the criteria for such properties;

(5) Shall nominate properties of historical, prehistoric architectural, archaeological and cultural significance to the Oregon State Register of Historic Properties and to the National Register of Historic Places;

(6) Shall administer state and federal tax incentive provisions for the preservation of properties on the state and national registers;

(7) Shall provide information on federal and state tax benefits for preservation projects;

(8) Shall administer grant programs to conduct surveys of historic properties and to assist the development of properties on the state and national registers;

(9) Shall provide or assist other appropriate state agencies in providing information and education on the economic and social benefits of developing historical and cultural resources;

(10) Shall provide public education and information to foster the purposes of ORS 358.565 to 358.622;

(11) Shall provide technical assistance as funds permit;

(12) Shall work with local, statewide and national organizations to develop means of promoting historic preservation, including legislation, financing, education, easements, conferences and workshops and audio-visual materials;

(13) Shall, when a project involves Native American concerns, work with the Commission on Indian Services, project administrators and the local Indian tribes or communities to insure that these concerns are adequately addressed;

(14) May review and comment on the impact of publicly funded projects and programs;

(15) May accept gifts and grants to be used for purposes consistent with ORS 358.565 to 358.622; and

(16) Subject to the availability of funds therefor, serve as staff for the State Advisory Committee on Historic Preservation. [1983 c.268 §3]

358.615 [1953 c.475 §2; 1955 c.547 §1; renumbered 390.420]

358.617 Rules. Pursuant to ORS chapter 183, the State Historic Preservation Officer shall adopt rules to carry out the duties and functions of the officer, including rules governing cultural resource management programs and grants-in-aid program categories. [1983 c.268 §4]

358.620 [1953 c.475 §4; 1955 c.547 §2; renumbered 390.430]

358.622 State Advisory Committee on Historic Preservation. (1) There is created a State Advisory Committee on Historic Preservation consisting of not more than nine members appointed by the Governor. At least one-half of the members shall be from among persons recognized as professionals in the areas of history, architectural history, architecture, archaeology, museum management or cultural or ethnic minorities. A representative of the Oregon Native American Indian community shall be appointed.

(2) The committee:

(a) Shall review and make recommendations concerning nominations by the State Historic Preservation Officer of properties to the state and national registers of historic properties and places;

(b) Shall advise the State Historic Preservation Officer on matters of policy, programs and budget; and

(c) May perform such other duties as may be requested by the State Historic Preservation Officer.

(3) The Governor shall select the chairperson and vice chairperson with such terms and duties as the committee may prescribe. Five members of the committee constitute a quorum. The committee shall meet a minimum of three times a year.

(4) Members of the committee shall not receive compensation but shall be entitled to actual and necessary travel expenses subject to ORS 292.495.

(5) The committee shall develop the criteria for the creation of an Oregon State Register of Historic Properties, and review properties for acceptance by the Oregon Property Management Account and may appoint any other committee or subcommittee necessary to carry out its functions. [1983 c.268 §5]

358.625 [1953 c.475 §3; renumbered 390.440]

358.630 [1953 c.475 §5; renumbered 390.450]

PRESERVATION OF PROPERTY OF HISTORIC SIGNIFICANCE

358.635 Definitions for ORS 358.635 to 358.653. As used in ORS 358.635 to 358.653:

(1) "Historic artifacts" means three-dimensional objects including furnishings, art objects and items of personal property which have historic significance. "Historic artifacts" does not include paper, electronic media or other media that are classified as public records.

(2) "State agency" includes all officers, employees, agencies, boards, committees and commissions of the legislative, executive, administrative and judicial branches of state government. [1979 c.205 §5; 1991 c.240 §1]

358.640 State-owned historic artifacts; catalog; recommendations to state agency; rules. (1) The State Parks and Recreation Department, in consultation with the Oregon Heritage Commission, shall identify and catalog state-owned historic artifacts.

(2) The State Parks and Recreation Department shall make recommendations to any state agency or political subdivision that possesses any historic artifact relating to its retention, preservation, maintenance, use or transfer to the custody of any public or private agency or person.

(3) Any state agency shall obtain approval from the State Parks and Recreation Department prior to transferring, selling, demolishing, substantially altering or otherwise disposing of any historic artifact.

(4) The State Parks and Recreation Department shall adopt rules pursuant to ORS chapter 183 to implement ORS 358.635 to 358.653. [1979 c.205 §1; 1983 c.295 §2; 1989 c.743 §1; 1991 c.240 §2; 1995 c.428 §20]

358.645 Review of private property of historic significance. A private owner of any historic artifact believed to have state or national historic significance that the

owner wishes to give to the state or to a political subdivision may request review of the significance of the property by the State Parks and Recreation Department. [1979 c.205 §2; 1983 c.295 §3; 1989 c.743 §2; 1991 c.240 §3; 2003 c.18 §1]

358.647 Transfer of state-owned historic artifact. A person, other than the state or a person who has received written permission from the state, shall not sell, trade or otherwise transfer any state-owned historic artifact. [1991 c.240 §7]

358.650 Acceptance of historic artifact as gift to state; custody; finders fees. (1) Whenever a prospective donor of any historic artifact identified as historically significant pursuant to ORS 358.645 requires immediate acceptance of the property as a condition of a gift, the State Parks and Recreation Department may accept the gift on behalf of the state or political subdivision and may place the gift in the custody of a state agency or political subdivision under agreement between the department and the agency or political subdivision.

(2) The State Parks and Recreation Department may transfer under agreement between the department and the agency or political subdivision any gift accepted pursuant to this section to the custody of an appropriate state agency or political subdivision.

(3) The State Parks and Recreation Department may, pursuant to procedures adopted by rule, pay finders fees, rewards or otherwise expend funds to acquire historic artifacts previously owned by the state. [1979 c.205 §3; 1983 c.295 §4; 1991 c.240 §4; 1995 c.428 §21; 2003 c.18 §6]

358.653 Conservation program; leases. (1) 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.

(2) State agencies and political subdivisions may and are encouraged to lease real property of historic significance to private businesses and nonprofit organizations for purposes which are consistent with the nature of the property.

(3) Where possible, the Oregon Department of Administrative Services shall acquire or lease buildings of historic significance for state use.

(4) As used in this section, "political subdivision" includes counties, cities, school districts and any other governmental unit within the state not included in ORS 358.635. [1983 c.295 §§1,5,6; 1989 c.743 §3]

358.655 [1979 c.205 §4; 1987 c.883 §1; 1989 c.743 §4; 1991 c.240 §5; repealed by 1995 c.428 §8]

358.660 [1989 c.112 §6; 1995 c.144 §2; repealed by 2003 c.18 §2]

HISTORIC PRESERVATION REVOLVING LOAN FUND

358.662 Definitions for ORS 358.662 to 358.678. As used in ORS 358.662 to 358.678:

(1) "Eligible costs" includes architectural, engineering, material and planning costs, rehabilitation and reconstruction costs, and construction expenses necessary to meet building code requirements.

(2) "Financial need" means the amount of moneys that must be obtained from a lender in order for the proposed project to be completed.

(3) "Historic property" means real property that is:

(a) Listed individually in the National Register of Historic Places established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665);

(b) A contributing property in a National Register Historic District; or

(c) Designated by local ordinance as an individual historic property or as a contributing property in a historic district and that the State Historic Preservation Officer finds is eligible for listing in the National Register of Historic Places.

(4) "Owner" includes a purchaser under a recorded instrument of sale.

(5) "Standards and guidelines for the rehabilitation of historic property" means the standards and guidelines adopted by the State Historic Preservation Officer under ORS 358.676 (1). [2001 c.540 §29]

358.664 Historic Preservation Revolving Loan Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Historic Preservation Revolving Loan Fund. Moneys in the Historic Preservation Revolving Loan Fund are continuously appropriated to the State Historic Preservation Officer for the following purposes:

(a) To provide loans to owners of historic property, as described in ORS 358.662 to 358.678.

(b) To pay for administrative expenses of the State Historic Preservation Officer in:

(A) Processing applications for loans made under ORS 358.662 to 358.678;

(B) Investigating historic property rehabilitation projects funded by loans made under ORS 358.662 to 358.678; and

(C) Collecting loans made under ORS 358.662 to 358.678.

(c) To pay expenses incurred by the Attorney General in the exercise of the Attorney General's enforcement authority described in ORS 358.955 or in the Attorney General's criminal prosecution of violations of ORS 358.905 to 358.961 or ORS chapter 97 or 390.

(d) To promote public education regarding cultural preservation.

(2) The Historic Preservation Revolving Loan Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly;

(b) Repayment of moneys loaned from the fund;

(c) Moneys transferred to the fund from the federal government or from private contributions;

(d) Application fees required under ORS 358.668;

(e) Interest and other earnings on moneys in the fund;

(f) Moneys recovered by the Attorney General in the exercise of the Attorney General's enforcement authority described in ORS 358.955; and

(g) Gifts, grants or donations received from any source.

(3) The State Historic Preservation Officer may seek or accept gifts, grants or donations from any source for the purposes specified in subsection (1)(c) and (d) of this section. Moneys received under this subsection shall be paid into the fund established in subsection (1) of this section. [2001 c.540 §30; 2009 c.89 §1]

358.666 Historic Preservation Revolving Loan Fund Review Committee. (1) There is established the Historic Preservation Revolving Loan Fund Review Committee, consisting of three members appointed by the State Historic Preservation Officer and representing each of the following interests:

(a) The interests of the Housing and Community Services Department;

(b) The interests of the State Historic Preservation Officer; and

(c) The interests of banks and other financial institutions.

(2) The review committee shall review applications for loans from the Historic Preservation Revolving Loan Fund, make recommendations for loan approval or disapproval to the State Historic Preservation Officer and establish interest rates to be charged for the loans.

(3) The term of office of each member of the review committee is four years, but a member serves at the pleasure of the State Historic Preservation Officer. Before the expiration of the term of a member, the State Historic Preservation Officer shall appoint a successor whose term begins on the July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the State Historic Preservation Officer shall make an appointment to become immediately effective for the unexpired term.

(4) Successor appointments to the review committee shall be based on representation of interests of the Housing and Community Services Department, the State Historic Preservation Officer and banks and other financial institutions.

(5) A majority of the members of the review committee constitutes a quorum for the transaction of business.

(6) A member of the review committee shall serve without compensation.

(7) The review committee shall meet at least once per year. [2001 c.540 §31]

358.668 Historic preservation loans; application and approval process. (1) Any of the following persons may apply for a loan from the Historic Preservation Revolving Loan Fund:

(a) An owner of historic property.

(b) A city or county having jurisdiction over the historic property for which the application is being filed.

(c) A nonprofit corporation organized for the purpose of owning, managing or rehabilitating historic property.

(d) A business association organized, in whole or part, for the purpose of historic preservation.

(e) A neighborhood organization representing a neighborhood in which historic property is located.

(f) An economic development agency of this state or of a political subdivision of this state.

(2) A person or other entity described in subsection (1) of this section that intends to rehabilitate historic property and that seeks a loan from the Historic Preservation Revolving Loan Fund to pay for the rehabilitation shall file an application for the loan with the State Historic Preservation Officer. The application shall be on a form prescribed by the State Historic Preservation Officer and shall include or be accompanied by:

(a) The name and address of the loan applicant and of the property owner;

(b) The address and historic name, if any, of the property;

(c) Evidence that the property is historic property;

(d) A description of the proposed rehabilitation project;

(e) Architectural plans, specifications and other materials that facilitate the evaluation of the proposed rehabilitation project for conformance with standards and guidelines for the rehabilitation of historic property;

(f) Color photographs, at least four inches by six inches in size, that depict that portion of the property that is the subject of the application, and duplicates in color slide format or digital or other computer imaging format;

(g) A statement of financial need to complete the project;

(h) An estimate of the eligible costs to be incurred in completing the rehabilitation project;

(i) A schedule setting forth when the rehabilitation project is to be commenced and completed; and

(j) Any other information that the State Historic Preservation Officer may require.

(3) The application shall be accompanied by a fee established pursuant to ORS 358.676 (2).

(4) Upon receipt of a complete application, the State Historic Preservation Officer shall forward the application to the Historic Preservation Revolving Loan Fund Review Committee. The review committee shall review the application and make a recommendation to approve or disapprove the loan being sought. The recommendation of the review committee shall be based on the extent to which:

(a) The project meets the standards and guidelines for the rehabilitation of historic property;

(b) The proposed rehabilitation project is feasible;

(c) The requested loan would constitute no more than a reasonable risk and for which there would be a reasonable likelihood of repayment;

(d) The applicant has a financial need for the requested loan;

(e) The applicant's financial resources are adequate to ensure success of the project; and

(f) There are moneys available in the Historic Preservation Revolving Loan Fund.

(5) The Historic Preservation Revolving Loan Fund Review Committee shall make its recommendation to the State Historic Preservation Officer. The review committee shall include an interest rate for the loan if the loan is issued. The State Historic Preservation Officer must consider the review committee's recommendation but need not accept the recommendation of the review committee in accepting or disapproving the application. The State Historic Preservation Officer shall consider the factors set forth in subsection (4) of this section in determining whether to approve or disapprove the loan application. If the State Historic Preservation Officer decides to approve the loan, the interest rate for the loan shall be that prescribed by the review committee.

(6) A loan may not be approved in an amount that exceeds the lesser of the applicant's estimate of eligible costs for the project or the State Historic Preservation Officer's determination of the expected estimated costs to complete the project.

(7) The State Historic Preservation Officer may request modifications to the rehabilitation project as a condition to loan approval or may approve a loan that is less than the amount requested in the application.

(8) The decision of the State Historic Preservation Officer to disapprove a loan application or reduce the amount of the loan may not be appealed.

(9) If the State Historic Preservation Officer approves a loan application, the approval shall be conditioned on the borrower and the owner of historic property agreeing to the terms of the loan contract set forth in ORS 358.670.

(10) The State Historic Preservation Officer shall notify the applicant of the State Historic Preservation Officer's decision to approve, modify and approve or disapprove a loan application. [2001 c.540 §32]

358.670 Loan contract terms and requirements. (1) If a loan application is approved by the State Historic Preservation Officer under ORS 358.668, the borrower (and the owner of historic property if the owner is a person other than the borrower) must enter into a written loan contract with the State Historic Preservation Officer. Under the terms of the loan contract, the borrower (and the owner of historic property if the owner is a person other than the borrower) must agree to:

(a) Maintain the historic property as restored, rehabilitated or repaired for a period of at least 15 years.

(b) Maintain complete and proper financial records regarding the historic property and allow the State Historic Preservation Officer to review those records upon request.

(c) Complete the proposed rehabilitation of the historic property within two years after the date of entering into the loan contract under this section.

(d) Complete the proposed rehabilitation in conformance with the standards and

guidelines for the rehabilitation of historic property.

(e) Provide a collateral security interest in the historic property to this state that meets the standards set forth in rules adopted by the State Historic Preservation Officer for securing loans from the Historic Preservation Revolving Loan Fund.

(f) Use the loan proceeds only to fund eligible costs of the rehabilitation.

(2) The loan contract must state the duration of the loan, which may not exceed five years. The loan contract must state the interest payable on the unpaid balance of the loan, which shall be the interest rate set forth in the loan recommendation of the Historic Preservation Revolving Loan Fund Review Committee but may not exceed five percent per year, compounded daily. The loan contract must provide that the loan is to be repaid in equal installments made at least annually.

(3) The loan contract entered into pursuant to this section must include the following additional provisions:

(a) A loan repayment schedule;

(b) The manner of determining when loan payments are delinquent;

(c) Extensions of time in making repayment if the delinquency is caused by emergency, act of God or economic hardship beyond the control of the borrower and the security for the loan will not be impaired thereby;

(d) Rescission of the loan upon default of the loan, upon failure to complete the proposed rehabilitation in conformance with the standards and guidelines for the rehabilitation of historic property or upon failure to maintain the property as historic property; and

(e) Any other provision the State Historic Preservation Officer considers necessary to ensure expenditure of the moneys loaned for eligible costs and to ensure repayment of the borrowed moneys.

(4) After a loan contract in compliance with this section is entered into by the borrower and the State Historic Preservation Officer (and the owner of historic property if the owner is a person other than the borrower), the State Historic Preservation Officer shall transfer the borrowed moneys from the Historic Preservation Revolving Loan Fund to the borrower in accordance with the terms of the loan contract. [2001 c.540 §33]

358.672 Lien created when historic preservation loan made; procedure; foreclosure. (1) The State Historic Preservation Officer has a lien upon any historic property that is the subject of a rehabilitation funded in whole or part from a loan from the Historic Preservation Revolving Loan Fund for the entire amount of principal and interest on the loan.

(2) The lien created under this section shall attach as of the day the loan contract is entered into under ORS 358.670.

(3) The State Historic Preservation Officer shall file a written notice of claim of lien not later than 120 days after the lien attaches with the recording officer of the county in which the historic property is located.

(4) The notice of claim of lien required under subsection (3) of this section must be a statement in writing verified by the oath of the State Historic Preservation Officer or by the oath of an authorized agent, and must contain:

(a) A statement of the amount of principal and interest of the loan from the Historic Preservation Revolving Loan Fund;

(b) The name of the owner of the historic property to be charged with the lien; and

(c) A description of the property to be charged with the lien sufficient for identification.

(5) The recording officer of the county shall record a notice of claim of lien filed under this section in the county clerk lien records.

(6) A lien described in this section shall be foreclosed in the manner provided in ORS chapter 88.

(7)(a) If a suit to foreclose a lien created under this section is not brought within five years from the date the notice of claim of lien is recorded, the lien shall cease to exist.

(b) Notwithstanding paragraph (a) of this subsection, a lien created under this section may be continued in force for a period longer than described in paragraph (a) of this subsection pursuant to an agreement to extend the period of time for which repayment of the loan is to occur, but may not be continued for a period longer than six months following the period for which the repayment is to occur. [2001 c.540 §34]

358.674 Types of property for which historic preservation loan may be made. A loan from the Historic Preservation Revolving Loan Fund may be made for the rehabilitation of a historic property that is classified and specially assessed as provided in ORS 358.480 to 358.545 or any other historic property. [2001 c.540 §35]

358.676 Rules; fees. (1) The State Historic Preservation Officer shall adopt rules:

(a) Establishing standards and guidelines for the rehabilitation of historic property.

The standards and guidelines shall include, but need not be limited to, guidance on preservation, maintenance and rehabilitation of historic property, adequacy of rehabilitation plans and proposals, and eligible alterations of and construction associated with historic property. To the extent practicable, the standards and guidelines shall be based on those developed by the United States Secretary of the Interior to determine sufficiency of rehabilitation plans.

(b) Establishing criteria and procedures for the payment of moneys to the Attorney General for expenses described in ORS 358.664.

(2) The State Historic Preservation Officer may adopt rules:

(a) Establishing lending guidelines for loans from the Historic Preservation Revolving Loan Fund.

(b) Establishing loan application procedures.

(c) Establishing loan application and administrative fees.

(d) Facilitating administration of the Historic Preservation Revolving Loan Fund.

(e) Facilitating the promotion of public education regarding cultural preservation. [2001 c.540 §§31a,36; 2009 c.89 §2]

358.678 Annual report. The State Historic Preservation Officer, in consultation with the Historic Preservation Revolving Loan Fund Review Committee, shall report annually to the Governor and to the Legislative Assembly on the financial condition and operation of the Historic Preservation Revolving Loan Fund. [2001 c.540 §37]

OREGON PROPERTY MANAGEMENT PROGRAM FOR HISTORIC SITES AND PROPERTIES

358.680 Definitions for ORS 358.683 to 358.690. As used in ORS 358.683 to 358.690:

(1) "Director" means the State Parks and Recreation Director.

(2) "Committee" means the State Advisory Committee on Historic Preservation established in ORS 358.622.

(3) "Oregon Property Management Program" means the program established in ORS 358.683.

(4) "State Historic Preservation Officer" means the officer designated under ORS 358.565. [1983 c.231 §1; 1989 c.904 §55]

358.683 Oregon Property Management Program; rules. (1) The State Parks and Recreation Director, with the advice of the State Advisory Committee on Historic Preservation shall formulate and implement an Oregon Property Management Program. The program shall include, but need not be limited to:

(a) Policies and plans for accepting and preserving historic sites and property in Oregon;

(b) Criteria for selecting sites and property according to the provisions of ORS 358.680 to 358.690; and

(c) Any other provision necessary to administer the program.

(2) The director and the State Advisory Committee on Historic Preservation shall coordinate activities concerning historic properties with the State Historic Preservation Officer.

(3) In accordance with any applicable provision of ORS chapter 183, the director may promulgate rules to carry out the provisions of the Oregon Property Management Program. [1983 c.231 §3; 1989 c.904 §56]

358.685 Duties of director. In addition to any other duties or powers provided by law, the State Parks and Recreation Director may, with the advice of the State Advisory Committee on Historic Preservation:

(1) Except as otherwise provided in ORS 358.650 (1), accept, from whatever source, appropriations, gifts or grants of money or other property for the preservation of significant historic sites and properties, and use the money or property to preserve significant historic sites and properties.

(2) Sell or exchange property owned by the state and used for state heritage or historic preservation purposes if the director determines that the sale or exchange would be advantageous to the state for the preservation of significant historic sites and properties.

(3) Acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for significant sites and properties of recreational value and purpose.

(4) Acquire by purchase, lease, agreement, gift or otherwise real property and all interests therein and establish, operate and maintain thereon significant historic sites and properties.

(5) Establish and develop significant historic sites and properties and prescribe rules governing the use of significant historic sites and properties established and developed under any other provision of state law.

(6) By rule prescribe reasonable fees for recreational uses of real property owned or managed by the administrator, unless those fees or user charges are otherwise prescribed by law or administrative rule.

(7) Enter into contracts with any person or governmental agency for the development

and encouragement of programs and projects designed to preserve significant historic sites and properties.

(8) Perform the acts necessary for the establishment and implementation of programs designed to preserve significant historic sites and properties with agencies of the federal government.

(9) Offer and pay rewards for the arrest and conviction of any person who has violated any of the state heritage or historic preservation laws. No reward shall exceed $100 for a single arrest and conviction. [1983 c.231 §4; 1989 c.904 §57]

358.687 Reports. (1) The State Parks and Recreation Director shall report biennially to the Governor and to the Legislative Assembly on activities of the State Advisory Committee on Historic Preservation during the preceding biennium. The director shall make any additional reports required by the Governor or the Legislative Assembly.

(2) Reports required under subsection (1) of this section shall be in the form and contain the information the director considers appropriate, and shall contain the information required by the Governor or the Legislative Assembly. [1983 c.231 §2; 1989 c.904 §58]

358.690 Oregon Property Management Account. (1) The Oregon Property Management Account is established as a separate account in the State Parks and Recreation Department Fund. Except as otherwise provided by law, all moneys received by the State Advisory Committee on Historic Preservation under law shall be paid into the State Treasury and credited to the account. All moneys in the account and all income, interest and earnings from the moneys in the account are appropriated continuously to the committee to carry out the state heritage and historic preservation laws.

(2) The committee shall keep a record of all moneys deposited in the Oregon Property Management Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) Moneys in the Oregon Property Management Account shall be accounted for separately and shall be stated separately in the State Parks and Recreation Department biennial budget. [1983 c.231 §5; 1989 c.904 §59]

358.710 [1965 c.572 §2; 1973 c.757 §9; 1981 c.165 §1; repealed by 2005 c.139 §3]

358.720 [1965 c.572 §3; 1981 c.165 §2; 1997 c.155 §1; repealed by 2005 c.139 §3]

358.730 [1965 c.572 §4; 1981 c.165 §3; 1983 c.324 §14; 1993 c.736 §51; 1995 c.362 §15; 1997 c.155 §2; 2005 c.139 §1; renumbered 358.583 in 2007]

358.740 [1965 c.572 §§5,10; 1981 c.165 §4; 1997 c.155 §3; repealed by 2005 c.139 §3]

358.750 [1965 c.572 §6; 1981 c.165 §5; 1983 c.324 §15; 1993 c.736 §52; 1997 c.155 §4; repealed by 2005 c.139 §3]

358.760 [1965 c.572 §7; 1981 c.165 §6; 1983 c.324 §16; 1993 c.736 §53; 1997 c.155 §5; repealed by 2005 c.139 §3]

358.770 [1965 c.572 §9; 1981 c.165 §7; renumbered 358.018 in 2005]

358.810 [Formerly 357.910; 1979 c.712 §2; repealed by 1981 c.126 §6]

LOCAL SYMPHONIES AND BANDS

358.820 Tax levy for municipal orchestras and band. Any city having a population of 250,000 or more may, when authorized as provided in ORS 358.840, levy each year a tax of not to exceed fifteen-hundredths of one mill on each dollar of assessed valuation of property subject to taxation by the city for the purpose of maintaining and employing one major symphony orchestra, one band and one junior symphony orchestra. At the election of the governing body of the city, the levy may be:

(1) Within the permanent rate limit for the city, but may not increase that limit; or

(2) A local option tax described in ORS 280.040 to 280.145. [Formerly 357.920; 2005 c.94 §114]

358.830 [Formerly 357.930; repealed by 1983 c.350 §230 (358.831 enacted in lieu of 358.830)]

358.831 Election to levy tax. (1) This section establishes the procedure for submitting to election a tax levy for any of the purposes stated in ORS 358.820. The governing body of a city:

(a) May order the election on its own resolution; or

(b) Shall order the election when a petition is filed as provided in this section.

(2) A petition filed under this section shall request submission of the tax levy to the city electors.

(3) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition in ORS 250.265 to 250.346, except that notwithstanding ORS 250.325 a city governing body shall submit the tax levy question to the electors without first considering its adoption or rejection.

(4) Notwithstanding subsection (3) of this section, if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the city charter or an ordinance adopted under the city charter.

(5) The notice, time and manner of election shall be governed by the applicable provisions of ORS chapters 246 to 260.

(6) An election under this section shall be held only at the time of a statewide general election. [1983 c.350 §231 (enacted in lieu of 358.830); 1995 c.79 §199; 1999 c.21 §72]

358.840 Action upon favorable vote. If a majority of the votes cast on the proposition at the election is in favor of the proposition, the city is authorized and required to levy a tax within the amount and for the purpose or purposes authorized. [Formerly 357.950]

358.850 Annulment of tax. The proposition of whether or not a tax levied for the purposes of ORS 358.820 shall be annulled may be submitted to the electors of the city in the same manner as provided for the levy of the tax in ORS 358.831. If a majority of the votes cast on the proposition is in favor of the proposition, no further levy for said purposes shall be made. [Formerly 357.960]

OREGON STATE MUSEUM OF NATURAL HISTORY

358.880 Oregon State Museum of Natural History; activities; location; operation; state participation. (1) There is established an Oregon State Museum of Natural History whose activities shall include, but not be limited to:

(a) Extending and improving public access to the state-owned natural history collections now stored at the University of Oregon and any other items or collection of items which shall be acquired;

(b) Educating the public regarding Oregon's natural and archaeological history; and

(c) Mounting special exhibitions from time to time.

(2) The Oregon State Museum of Natural History shall be located in the museum complex, Alton Baker Park, Eugene, Lane County, Oregon. Future plans for the museum complex are recognized to include a science museum-planetarium, the Lane County Pioneer Museum, an adequate parking area, a park setting and other facilities appropriate to a major museum complex.

(3) The museum's construction and operation shall be the responsibility of the Lane Cooperative Museum Commission.

(4) The state agency responsible for state participation in the Oregon State Museum of Natural History shall be the Department of Transportation. [1979 c.852 §1]

358.885 Lane County matching fund relationship. (1) In relation to the Oregon State Museum of Natural History, the Department of Transportation is authorized to enter into a relationship with Lane County based upon local matching funds and efforts being available in fact.

(2) The Department of Transportation shall, in calculating the value of funds or other local efforts to be appropriated by Lane County, consider the value of existing or future construction, facilities in place, landscaping, gardens and all improvements made or to be made by Lane County. [1979 c.852 §2]

OREGON STATE MARITIME MUSEUM

358.900 Oregon State Maritime Museum; functions; participation by Department of Transportation. (1) Columbia River Maritime Museum, Incorporated, is designated the Oregon State Maritime Museum. The activities of the museum pertaining to its function as the Oregon State Maritime Museum may include, but are not limited to, the following:

(a) Extending and improving public access to state and privately owned maritime collections of historical, informational or technical interest and any other maritime items or collection of maritime items that may be acquired in the future;

(b) Educating the public regarding Oregon's maritime history and involvement; and

(c) Mounting special maritime exhibitions from time to time.

(2) The Department of Transportation is responsible for state participation in the Columbia River Maritime Museum in the same manner as the department is responsible for other historical museums in the state under ORS 358.018. [1981 c.480 §1; 1991 c.216 §1; 2005 c.139 §2]

ARCHAEOLOGICAL OBJECTS AND SITES

358.905 Definitions for ORS 358.905 to 358.961; interpretation. (1) As used in ORS 192.005, 192.501 to 192.505, 358.905 to 358.961 and 390.235:

(a) "Archaeological object" means an object that:

(A) Is at least 75 years old;

(B) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and

(C) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products.

(b) "Site of archaeological significance" means:

(A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or

(B) Any archaeological site that has been determined significant in writing by an Indian tribe.

(c)(A) "Archaeological site" means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with:

(i) Each other; or

(ii) Biotic or geological remains or deposits.

(B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

(d) "Indian tribe" has the meaning given that term in ORS 97.740.

(e) "Burial" means any natural or prepared physical location whether originally below, on or above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture, human remains were deposited.

(f) "Funerary objects" means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

(g) "Human remains" means the physical remains of a human body, including, but not limited to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

(h) "Object of cultural patrimony":

(A) Means an object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group.

(B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads, baskets or stone tools.

(i) "Police officer" has the meaning given that term in ORS 181.610.

(j) "Public lands" means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(k) "Sacred object" means an archaeological object or other object that:

(A) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

(B) Is used in connection with the religious or spiritual service or worship of a deity or spirit power; or

(C) Was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

(L) "State police" has the meaning given that term in ORS 181.010.

(2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq. [1983 c.620 §1; 1993 c.459 §1; 1995 c.588 §1]

358.910 Policy. The Legislative Assembly hereby declares that:

(1) Archaeological sites are acknowledged to be a finite, irreplaceable and nonrenewable cultural resource, and 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.

(2) The State of Oregon shall preserve and protect the cultural heritage of this state embodied in objects and sites that are of archaeological significance. [1983 c.620 §2; 1993 c.459 §2]

358.915 Application. The provisions of ORS 192.005, 192.501 to 192.505, 273.990, 358.905 to 358.961 and 390.235 do not apply to a person who unintentionally discovers an archaeological object that has been exposed by the forces of nature on public land or private property and retains the object for personal use, except for sacred objects, human remains, funerary objects or objects of cultural patrimony. [1983 c.620 §15; 1993 c.459 §3]

358.920 Prohibited conduct; exception; penalty. (1)(a) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on public or private lands in Oregon unless that activity is authorized by a permit issued under ORS 390.235.

(b) Collection of an arrowhead from the surface of public or private land is permitted if collection can be accomplished without the use of any tool.

(c) It is prima facie evidence of a violation of this section if:

(A) A person possesses the objects described in paragraph (a) of this subsection;

(B) A person possesses any tool that could be used to remove such objects from the ground; and

(C) A person does not possess a permit required under ORS 390.235.

(2) A person may not sell, purchase, trade, barter or exchange or offer to sell, purchase, trade, barter or exchange any archaeological object that has been removed from an archaeological site on public land or obtained from private land within the State of Oregon without the written permission of the landowner.

(3)(a) A person may not sell, trade, barter or exchange or offer to sell, trade, barter or exchange any archaeological object unless the person furnishes the purchaser a certificate of origin to accompany the object that is being sold or offered. The certificate shall include:

(A) For objects obtained from public land:

(i) A statement that the object was originally acquired before October 15, 1983.

(ii) The location from which the object was obtained and a brief cumulative description of how the object had come into the possession of the current owner in accordance with the provisions of ORS 358.905 to 358.961 and 390.235.

(iii) A statement that the object is not human remains, a funerary object, sacred object or object of cultural patrimony.

(B) For objects obtained from private land:

(i) A statement that the object is not human remains, a funerary object, sacred object or object of cultural patrimony.

(ii) A copy of the written permission of the landowner to acquire the object.

(b) As used in this subsection, "certificate of origin" means a signed and notarized statement that meets the requirements of paragraph (a) of this subsection.

(4)(a) If the archaeological object was acquired after October 15, 1983, from public lands, any object not described in paragraph (b) of this subsection is under the stewardship of the state and shall be delivered to the Oregon State Museum of Anthropology. The museum shall work with the appropriate Indian tribe and other interested parties to develop appropriate curatorial facilities for artifacts and other material records, photographs and documents relating to the cultural or historic properties in this state. Generally, artifacts shall be curated as close to the community of their origin as their proper care allows. If it is not feasible to curate artifacts within this state, the museum may after consultation with the appropriate Indian tribe or tribes enter into agreements with organizations outside this state to provide curatorial services; and

(b) If the object is human remains, a funerary object, a sacred object or an object of cultural patrimony, it shall be dealt with according to ORS 97.740, 97.745 and 97.750.

(5) A person may not excavate an archaeological site on privately owned property unless that person has the property owner's written permission.

(6) If human remains are encountered during excavations of an archaeological site on privately owned property, the person shall stop all excavations and report the find to the landowner, the state police, the State Historic Preservation Officer and the Commission on Indian Services. All funerary objects relating to the burial shall be delivered as required by ORS 358.940.

(7) This section does not apply to a person who disturbs an Indian cairn or burial. Any person who disturbs an Indian cairn or burial for any reason shall comply with the provisions of ORS 97.740 to 97.760.

(8) Violation of the provisions of this section is a Class B misdemeanor. [1983 c.620 §3; 1993 c.459 §4; 1995 c.543 §4; 1997 c.249 §115]

358.923 When collection may be held notwithstanding ORS 358.920 (3) and (4). Notwithstanding the provisions of ORS 358.920 (3) and (4), any collection of objects described in those subsections may be held if the collection:

(1) Is kept within this state;

(2) Is curated under customary museum standards; and

(3) Is available for nondestructive study by museums and educational institutions located in this state. [1993 c.459 §16]

Note: 358.923 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.924 Objects held unlawfully considered contraband; seizure; procedure; disposition of seized objects. (1) Archaeological objects, funerary objects, human remains, sacred objects and objects of cultural patrimony that are held in violation of the provisions of ORS 358.920 or 390.235 are contraband. A police officer shall seize all items declared to be contraband under the provisions of this section if the police officer has reasonable cause to believe the items are held in violation of the provisions of ORS 358.920 or 390.235.

(2) A law enforcement agency employing a police officer who seizes contraband items under this section shall give notice of the seizure to the district attorney for the county in which the items are seized. The district

attorney shall promptly investigate to determine whether any person claims the items seized.

(3) If any person claims items seized under this section, the district attorney shall file a petition with the circuit court for the county for an expedited hearing on the claim. The court shall conduct a hearing for the sole purposes of determining:

(a) Whether the items are archaeological objects, funerary objects, human remains, sacred objects or objects of cultural patrimony;

(b) Whether any arrowheads seized under this section were collected in compliance with ORS 358.920 (1)(b); and

(c) Whether a person claiming an item other than an arrowhead can lawfully possess the item under ORS 358.905 to 358.961.

(4) If items seized under this section are not claimed by any person, or the circuit court determines that the items may not be returned to the claimant under the provisions of subsection (3) of this section:

(a) Archaeological objects shall be delivered to the Oregon State Museum of Anthropology and curated as described in ORS 358.920 (4)(a).

(b) Funerary objects, human remains, sacred objects and objects of cultural patrimony shall be returned to the appropriate tribe for reinterment or other disposition as provided in ORS 358.940. [2001 c.739 §2]

Note: 358.924 and 358.928 were added to and made a part of 358.905 to 358.961 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

358.925 Seizure of instrumentalities and proceeds of certain violations; forfeiture; procedure. (1) Violation of ORS 358.920 or 390.235 is prohibited conduct for the purposes of ORS chapter 131A. Proceeds and instrumentalities of a violation of ORS 358.920 or 390.235 may be seized and forfeited in the manner provided by ORS chapter 131A. An action for civil forfeiture under this section may be commenced by the Attorney General or by the district attorney for the county in which any of the property is seized.

(2) Property subject to forfeiture under this section may be seized by a police officer upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state.

(3) In the event of a seizure under subsection (1) of this section, a forfeiture proceeding shall be instituted promptly. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the police officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the police officer may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(4) In any action brought under this section, the circuit court shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions as the court may deem proper.

(5) A judgment rendered in favor of the state in any criminal proceeding for a violation of ORS 358.920 or 390.235 shall estop the defendant in any subsequent civil action or proceeding brought by the state or any other person as to all matters as to which such judgment would be an estoppel as between the state and the defendant.

(6) Notwithstanding any provision of ORS chapter 131A, after entry of a judgment of forfeiture in an action under this section, a forfeiting agency shall deliver the forfeited property and proceeds of the forfeited property to the Commission on Indian Services after making any deductions allowed for costs incurred by the forfeiting agency. The commission shall deliver the property and proceeds to the appropriate Indian tribe, as designated by the commission. If there is no appropriate Indian tribe, the commission shall use the property and proceeds for Indian historic preservation. [1983 c.620 §4; 1993 c.459 §5; 2001 c.739 §4; 2003 c.576 §437; 2009 c.78 §59]

358.928 Alternative method for seizure and forfeiture of instrumentalities and proceeds of certain violations; procedure. (1) All instrumentalities or proceeds from the violation of the provisions of ORS 358.920 to 358.955 or 390.235 are subject to civil forfeiture to the appropriate Indian tribe, as designated by the Commission on Indian Services. All forfeitures under this section shall be made with due provision for the rights of innocent persons.

(2) Property subject to forfeiture under this section may be seized by a police officer upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state.

(3) Any police officer seizing property under this section shall promptly contact the Commission on Indian Services. The commission shall designate the appropriate tribe, and give notice to the tribe of the seizure. A civil forfeiture proceeding under ORS 358.925 may not be commenced if the tribe gives written notice that the tribe intends to seek forfeiture under this section. Notice by the tribe must be given within 30 days after the commission gives notice to the tribe of the seizure.

(4) Property seized under this section shall be held by the police agency that employs the police officer pending judgment in an action under this section. The property shall not be subject to replevin. Pending judgment in the action, the police agency may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) In any action brought under this section, the circuit court shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

(6) The defendant or the tribe may demand a trial by jury in any civil action brought under this section.

(7) A judgment rendered in favor of the state in any criminal proceeding for a violation of ORS 358.920 to 358.955 or 390.235 shall estop the defendant in any action under this section as to all matters as to which such judgment would be an estoppel as between the state and the defendant. [2001 c.739 §3; 2003 c.576 §438]

Note: See note under 358.924.

358.930 [1983 c.620 §5; 1993 c.459 §6; repealed by 2001 c.739 §10]

358.935 Forfeiture of seized objects in criminal prosecution. Any instrumentality or proceeds seized under the provisions of ORS 358.925 shall be preserved and retained. If any instrumentality or proceeds are not forfeited under ORS 358.925 or 358.928, at the time the court sentences the defendant in the criminal prosecution for violation of the archaeology laws the court may order that any instrumentality or proceeds from a violation of ORS 358.920 or 390.235 be forfeited. [1983 c.620 §6; 1995 c.543 §9; 1999 c.1051 §269; 2001 c.104 §123; 2001 c.739 §5]

358.940 Reinterment required; notice to appropriate Indian tribe or Commission on Indian Services. (1) A person who disturbs native Indian remains or a funerary object at or associated with an archaeological site shall reinter at the person's expense those remains or funerary objects under the supervision of an Indian tribe as provided in ORS 97.750.

(2) Any native Indian sacred object, object of cultural patrimony or native Indian funerary object shall be reported to the appropriate Indian tribe and the Commission on Indian Services. The appropriate Indian tribe, with the assistance of the State Historic Preservation Officer, shall arrange for the return of any objects to the appropriate Indian tribe. [1983 c.620 §7; 1993 c.459 §7]

358.945 Notice required upon finding of object; exception. (1) If a person who is conducting an archaeological investigation on public lands according to the provisions of ORS 390.235 or on private land with the owner's written permission finds a sacred object or object of cultural patrimony, the person conducting the archaeological investigation shall notify in writing:

(a) The State Historic Preservation Officer; and

(b) The appropriate ethnic group, religious group or Indian tribe with which the object is associated.

(2) If a sacred object or object of cultural patrimony is recovered on any land, the State Historic Preservation Officer shall assist the appropriate group to repossess the object.

(3) This section does not apply to the contents of an Indian cairn or burial regulated under ORS 97.740 to 97.760.

(4) Failure to notify the appropriate Indian tribe as required by subsection (1)(b) of this section is a Class B misdemeanor. [1983 c.620 §8; 1993 c.459 §8; 1995 c.543 §5; 1997 c.249 §116; 2001 c.104 §124]

358.950 When notice to Indian tribe required; report; penalty. (1) Any person who conducts an archaeological excavation associated with a prehistoric or historic American Indian archaeological site shall notify the most appropriate Indian tribe. The notification shall include, but not be limited to:

(a) The location and schedule of the forthcoming excavation;

(b) A description of the nature of the investigation; and

(c) The expected results of the investigation.

(2) After notifying the appropriate Indian tribe under subsection (1) of this section, the person conducting the archaeological excavation shall consult a representative of the tribe to establish a procedure for handling sacred objects recovered during the archaeological excavation.

(3) A delegate from the appropriate Indian tribe may be present during the excavation.

(4) If requested, the Commission on Indian Services shall assist a person in locating the appropriate Indian tribe.

(5) At the conclusion of the investigation, the person conducting the excavation shall prepare and forward a copy of a report on excavation findings to the Commission on Indian Services and to the appropriate Indian tribe.

(6) Failure to notify the appropriate Indian tribe as required by subsection (1) of this section is a Class B misdemeanor. [1983 c.620 §9; 1985 c.198 §4; 1995 c.543 §6]

358.953 Compensation to property owner deprived of lawful use of property; expense of removal. (1) Under the provisions of ORS 358.905 to 358.961, if a property owner is deprived of an otherwise lawful use of private property, the state shall compensate the property owner for the loss in value under the procedures set forth in ORS chapter 35.

(2) Notwithstanding any other provision of law, if human remains, funerary objects, sacred objects or objects of cultural patrimony are removed from private property at a tribe's request, the tribe shall pay the expenses of removal and, at its expense, restore the private property to its condition prior to the removal. [1993 c.459 §18]

358.955 Civil enforcement. (1) Any person or the Attorney General, on behalf of the state, may institute a civil proceeding against a person who violates the provisions of ORS 358.920, 358.945, 358.950 or 390.235. In the proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief in other civil cases, except that a showing of special or irreparable damage to the person is not required. Upon the execution of the proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order or a preliminary injunction may be issued in any such action before a final determination on the merits.

(2) In any proceeding brought under this section, the court may allow the prevailing party to recover costs, expert witness fees, and reasonable attorney fees at trial and upon appeal. Any moneys recovered by the Attorney General under this subsection shall be deposited in the fund established in ORS 358.664.

(3) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under subsection (1) of this section if the Attorney General certifies that in the opinion of the Attorney General, the action or proceeding is of general public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Attorney General instituted the action or proceeding. [1983 c.620 §10; 2001 c.739 §6; 2009 c.89 §3]

358.958 Remedies not precluded. The application of one civil remedy under any provision of ORS 358.905 to 358.961 does not preclude the application of any other remedy under ORS 358.905 to 358.961 or under any other provision of statutory or common law. [2001 c.739 §8]

358.961 Time limitations on actions or proceedings; tolling of statute. Notwithstanding any other provision of law, a criminal or civil action or proceeding for a violation of ORS 358.920 to 358.955 and 390.235 may be commenced at any time within five years after the conduct in violation of a provision of ORS 358.920 to 358.955 and 390.235 terminates or the cause of action accrues. If a criminal prosecution, civil action or other proceeding is brought to punish, prevent or restrain any violation of the provisions of ORS 358.920 to 358.955 or 390.235, the running of the period of limitations prescribed by this section with respect to any cause of action arising under ORS 358.955 that is based in whole or in part upon any matter complained of in any such prosecution, action or proceeding shall be suspended during the pendency of such prosecution, action or proceeding and for two years following its termination. [2001 c.739 §9]