

SECTION 5.0300

HISTORIC AND CULTURAL LANDMARKS

OVERLAY DISTRICT

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5.0310 General

5.0311 Purpose

The purpose of the Historic and Cultural Landmarks Overlay District is to identify resources which have been designated as landmarks on the Historic and Cultural Landmarks List, adopted as an appendix to the Community Development Plan. Parcels on which a landmark is located shall be designated HL on the Community Development Special Purpose District Map. It is also the purpose of this district to regulate certain actions affecting these landmarks with the intent of substantially protecting and preserving those characteristics which make the landmark a visible link to the heritage of the community and enhance the quality of life for all residents of Gresham. It is also the purpose of this section to have a process for adding and removing a landmark to/from the Historic and Cultural Landmarks List.

5.0312 Coordination with Other Regulations

- A. The requirements of this overlay apply in addition to other applicable National Register of Historic Places requirements.
- B. Except as provided below, where the provisions of this overlay conflict with comparable provisions of the Gresham Community Development Code, the standards of this overlay will govern.

5.0313 Applicability

- A. Except as exempted below the regulations of this chapter apply to properties listed in **Table 5.0324** and sites north of Interstate 84.
- B. The following activities are exempt from the regulations of this overlay:
 - 1. Land divisions (including middle housing land divisions) involving sites containing landmarks determined by the Manager to not impact the distinguishing characteristics of a historic landmark (as described in either the designation application or National Register nomination).
 - 2. The conversion of landmarks into middle housing when no exterior changes will be made to the building and when determined by the Manager that there is no impact to the distinguishing characteristics (other than use) of a historic landmark (as described in either the designation application or National Register nomination).
 - 3. Alterations to sites (including construction, demolition, and tree removal) containing landmarks when said alterations are determined by the Manager to not impact the distinguishing characteristics of a historic landmark (as described in either the designation application or National Register nomination).

5.0314 Permitted Uses

- A. Uses permitted in the HL Overlay District shall be those listed as permitted in the underlying district designated on the Community Development Plan Map for the site.

5.0320 Identification and Designation

5.0321 Requirements for Historic Resources Inventory

The *Historic Resources Inventory Report* (1987) lists, describes and determined the historical significance of 238 sites, buildings and objects within the city. A number of these resources were found to be historically significant. These were placed on the Historic and Cultural Landmarks List and protected with the Historic and Cultural Landmarks Overlay District. The following requirements apply to inventories of historic resources:

- A. Before the City commences future inventory studies/updates, it shall provide a public notice describing the inventory and its purposes and invite public participation, especially from property owners in the area affected by the inventory. The notice shall be published in the local newspaper at least 10 days before an inventory update begins.
- B. Inventory documents, including survey sheets, shall be maintained, periodically updated as needed, and accessible to the public for viewing.
- C. Inventory documents and processes shall be compatible with the practices of the State Historic Preservation Office for maintaining the Oregon Inventory of Historic Sites.
- D. Records concerning archaeological sites shall not be made available to the public, except to the extent

necessary to comply with State open records laws.

- E. Properties listed in the inventory are not subject to the standards of the Historic and Cultural Landmarks District unless they are also listed on the Historic and Cultural Landmarks List.

5.0322 Designation of Historic and Cultural Landmarks

- A. **Criteria for Designation.** The Historic Resources Subcommittee may recommend to the Council the designation of resources as historic or cultural landmarks. Resources designated as landmarks shall be included in the Historic and Cultural Landmarks List, adopted as an appendix to the Gresham Community Development Code, and shall be indicated on the Community Development Plan Map with an HL overlay district designation. A resource may be designated a historic or cultural landmark upon finding that at least one of the following criteria is satisfied:

1. The resource possesses significance in the history of Gresham, Multnomah County, the State of Oregon, or the nation as evidenced by:
 - a. Association with the lives of persons holding a significant place in the history of the community; or
 - b. Association with significant past events, trends, or values that may be either cultural, economic, social, or political.
2. The resource possesses architectural significance as evidenced by:
 - a. Embodiment of the distinctive characteristics of a type, period, or method of construction; or
 - b. Development of the resource early in the sequence of local history; or
 - c. Rarity of the resource type in the area; or
 - d. Retention of the integrity of the original design of the resource.
3. The resource is representative of the work of a designer, architect, or master builder who influenced the development and appearance of Gresham, the State of Oregon, or the nation.
4. A resource has yielded, or may be likely to yield, information important in prehistory or history.

- B. **Procedure for Designation.** Designation of a site, structure, or object as a historic or cultural landmark may be proposed by the owner, by the Historic Resources Subcommittee, by the Planning Commission, or by the Council. A proposal for landmark designation shall first be considered by the Subcommittee. The Subcommittee shall recommend approval, approval with modifications, or denial of the proposed landmarks designation, and shall make its recommendation based on findings made in response to the criteria of **Section 5.0322(A)**. The recommendation and all findings shall be transmitted to the City Council and the proposal shall be processed under the Type IV procedure.

1. In acting to approve or approve with modifications a proposed landmarks designation, findings shall be made as to the location and quality of the resource and any conflicting uses that might affect the resource. Based on such consideration, the Council shall act to include the resource on the Historic and Cultural Landmarks List as a Class 1 or a Class 2 landmark.
2. When designation of a Class 1 or Class 2 landmark occurs by action of the Council, the parcel on which the landmark is located shall be indicated on the Community Development Plan Map as being in the HL district. However, for purposes of applying provisions of **Section 5.0321, 5.0322, and 5.0323** of the Community Development Code, only the specific site, structure or object designated on the List shall be considered to be the landmark, and other structures, uses and improvements on the parcel shall not be subject to those provisions.
3. The City shall notify property owners at three-year intervals by first class mail of the existence of

a Class 1 or Class 2 landmark on their property. The notice shall include a copy of the Section 5.0300 landmark regulations.

4. If during the procedure for adding a property to the Historic and Cultural Landmarks List, the property owner submits oral or written testimony in the record objecting to its addition, it shall not be added to the List.
 - a. No permit for the demolition or modification of a property removed from consideration for designation under this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.
5. Properties that have been placed on the National Register of Historic Places:
 - a. Shall be designated with the Historic and Cultural Landmarks Overlay District; and
 - b. Are automatically eligible to be added to the Historic and Cultural Landmarks List. With the property owner's consent, this may be done by the Manager under a Type I procedure. Findings pursuant to the criteria of **Section 5.0322(A)** are not necessary.

5.0323 Change in Status or Removal of Historic or Cultural Landmark Designation

A. Criteria for Removal of Historic or Cultural Landmark Designation

1. The City shall remove a property from the Historic and Cultural Landmarks List if the designation was imposed on the property by the City, and the owner at the time of designation has retained ownership since the time of the designation, and requests that the local government remove the property from the resource list, and:
 - a. Can demonstrate that the owner objected to the designation on the public record, or
 - b. Was not provided an opportunity to object to the designation.
2. Except as provided in **Section 5.0323(A)(1)** above, the City may only remove a resource from the Historic and Cultural Landmarks List if:
 - a. The resource has lost the qualities for which it was originally recognized; or
 - b. Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at the time of listing; or
 - c. The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

B. Procedure for Change in Status or Removal of Historic or Cultural Landmark Designation

1. If the property owner has retained ownership since the time of designation and wishes to remove a landmark designation per **5.0323(A)(1)**, the application will be processed under the Type I procedure, findings under **Section 5.0322(A)** are not required.
2. Removal, entirely or in part, of landmark designation from a landmark resource per **5.0323(A)(2)(a) or (b)** or, with consent of the owner, a change in the status of a landmark as a Class 1 or Class 2 landmark may be proposed by the owner of the landmark, by the Historic Resources Subcommittee, by the Planning Commission, or by the Council. The proposal will be provided to the Historic Resources Subcommittee which may recommend to the Manager approval, approval with modifications, or denial of the proposed removal of landmark designation or change in status, and shall make its recommendation based on findings made in response to the criteria of **Section 5.0322(A)**. The proposal shall be processed under the Type II procedure.

3. Removal, entirely or in part, of landmark designation from a landmark resource per **5.0323(A)(2)(c)** may be proposed by the owner of the landmark, by the Manager, by the Historic Resources Subcommittee, by the Planning Commission, or by the Council. The Manager may remove the designation under the Type I procedure.
4. When landmark designation is removed from a resource, or a landmark's status is changed as a Class 1 or Class 2 landmark, the Community Development Plan Map and the Historic and Cultural Landmarks List shall be revised accordingly.
5. If a property owner has submitted an application for a change in Status or Removal of Historic or Cultural Landmark Designation per **Section 5.0323(A)(1) or 5.0323(A)(2)(a)-(b)**, an application for demolition of the structure or to alter the exterior of the structure cannot be submitted until the delisting application is resolved.

5.0324 Historic and Cultural Landmark List

Table 5.0324 lists those historic resources that have been found to be significant and which are protected with the Historic and Cultural Landmarks Overlay District.

Table 5.0324 HISTORIC AND CULTURAL LANDMARKS LIST
Class 1 Landmarks

Address	Name	Points	Use	National Register
17111 NE Sandy	Zimmerman House	100	Institutional	Yes
410 N. Main	Carnegie Library	95	Institutional	Yes
1304 E. Powell	William Gedamke House	90	Commercial	Yes
722 NE 162nd	The Louise Home	90	Institutional	Yes
1420 SE Roberts	Anderson House	85	Residential	Yes
3680 SW Towle	Heiney House	85	Residential	
765 SW Walters Road	Olson, Charles & Fae House		Residential	Yes
938 SE Roberts	Bernard Witter Residence	85	Residential	
330 W. Powell	W. Gresham Grade School	80	Institutional	
140 SE Roberts	Rev. Thompson Residence	80	Residential	
1325 W. Powell	J. R. Elkhorn Ranch	75	Residential	
43 NW Ava	W. K. Hamilton Residence	70	Residential	
307 NE Kelly	Freeman Property	75	Residential	
1229 W. Powell	Dr. Hughes Residence	65	Residential	Yes
1265 SE Roberts	Judge Stapleton House	80	Residential	
3655 SE Powell	Peterson Residence	80	Residential	
611 NW Wallula	Fred Honey House	75	Residential	
31 NW 11th	Lunceford Residence	80	Residential	
53 NW 12th	Walker Residence	80	Residential	
54 NW 12th	Aldrich/Bliss House	80	Residential	
1801 NE 201st	Lowitt Estate	70	Residential	

2202 SW Pleasant View	Giese House, Workshop & Cellar	50	Residential	
720 NW Division	VanDoninck House		Residential	
42 NW Wilson Ave.	Moen House		Residential	
2075 SE Palmsblad	Ott House		Residential	Yes
1322 SE 282nd	Hamlin-Johnson House		Residential	Yes
525 NW Overlook Ave.	Paul E. and Miriam R. Emerick House		Residential	
477 NW Overlook Ave.	Amundsen House		Residential	Yes

Class 2 Landmarks

Address	Name	Points	Use	National Register
103 W. Powell	US Post Office	85	Institutional	
122 N. Main	Duane C. Ely Building	75	Commercial	
58 W. Powell	Gresham Masonic Lodge #152	75	Institutional	
19720 SE Stark	11-Mile marker	75	Object	
23500 SE Stark	13-Mile Marker	75	Object	
25700 SE Stark	14-Mile Marker	75	Object	
1-84 & NE 169th	Pioneer Grave	75	Object	
18706 E. Burnside	Satellite Restaurant Sign	70	Object	
101-117 N. Main	Congdon Building	60	Commercial	

Source: Gresham Historic and Cultural Resources Inventory (1990), 93-32-CPA, and Gresham Comprehensive Plan Map

5.0330 Development Regulations

5.0331 Non-Conforming Landmark Structures and Signs

- A. Dimensional standards relating to site development, including minimum lot size, minimum yard setbacks, and maximum building height shall be as specified for the underlying Plan Map District designation. However, landmark structures which are non-conforming as to setbacks or building height, and for which reconstruction of damaged or deteriorated portions is proposed, may be reconstructed to match dimensions existing prior to the damage or deterioration.
- B. Non-conforming landmark signs, or non-conforming signs that are attached to a landmark structure, may be retained and shall not be subject to provisions of **Section A6.080** concerning removal or alteration of non-conforming signs.

5.0332 Reconstruction of Class 1 Landmarks

- A. Reconstruction of a Class 1 landmark which has been accidentally damaged or destroyed may be permitted by the Manager without review by the Historic Resources Subcommittee or the Hearings Officer when plans submitted by the owner clearly indicate that the structure will be reconstructed to match its appearance prior to the accident.

5.0333 Relocation of Exterior Alterations of Landmarks

- A. An application for relocation of a Class 1 Landmark or for work that would affect the exterior appearance of a Class 1 landmark shall be reviewed by the Historic Resources Subcommittee and by the Hearings Officer. The Historic Resources Subcommittee shall act to recommend approval, approval with modifications, or denial of the proposed action, and shall make its recommendation based on findings made in response to the criteria of **Sections 5.0321** or **5.0322** or **5.0323** of the Community Development Code. The recommendation and all findings shall be transmitted to the Hearings Officer and the proposal shall be processed under the Type III procedure.

A proposed alteration shall be approved or approved with modifications only upon finding conformance with the following standards:

1. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships shall be avoided.
2. A property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding, conjectural features or elements from other historic properties, shall not be undertaken.
3. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
4. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
5. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
6. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
7. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
8. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
9. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
10. Archaeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

5.0334 Demolition of Landmark Buildings

- A. An application for demolition affecting a Class 1 or a Class 2 landmark shall be reviewed by the Historic Resources Subcommittee and by the Hearings Officer. The Historic Resources Subcommittee shall act to recommend approval, approval with modifications, denial, or delay the proposed demolition for a period of up to 180 days from the time of the Subcommittee's initial consideration of the proposal. The review may consider the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with

and consideration of other policy objectives in the comprehensive plan. The recommendation and all findings shall be transmitted to the Hearings Officer and the proposal shall be processed under the Type III procedure.

In delaying issuance of a demolition permit, it must be found that such delay would result in a genuine effort which would have a reasonable chance of success to preserve the building, and that:

1. The resource is of such architectural, historic, or scenic interest that its demolition would be detrimental to the public interest; or
 2. The resource is of such interest or significance that it is or could be included in the National Register of Historic Places; or
 3. The resource has such unusual design, texture, or material characteristics that it could not be reproduced, or could be reproduced only with great difficulty or expense; or
 4. Retention of the resource would aid substantially in the preservation of another landmark resource or in preservation of the character of the adjacent area.
- B.** Non-contributing accessory structures, which have not acquired historic significance, are not required to follow the **5.0334(A)** review procedures.
- C.** When action is taken to approve a proposed demolition as proposed or as modified under **Section 5.0334(A)**, a demolition permit shall be withheld pending expiration of the appeal period specified in **Section 11.1100**.
1. Upon completion of the demolition, the resource shall be removed (entirely or in part) from the Historic and Cultural Landmark List.

5.0335 Demolition or Relocation of National Register Resources

- A.** An application for demolition or relocation of a National Register Resource (which is not also a Class 1 Landmark) shall be reviewed by the Historic Resources Subcommittee and by the Hearings Officer. The Subcommittee shall act to recommend approval, approval with modifications, denial, or delay of the proposed demolition or relocation for a period of up to 180 days from the time of the Subcommittee's initial consideration of the proposal. The review shall consider the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the comprehensive plan. The recommendation and all findings shall be transmitted to the Hearings Officer and the proposal shall be processed under the Type III procedure.
1. Non-contributing accessory structures, which have not acquired historic significance, are not required to follow the **5.0335(A)** review procedures.
 2. In delaying issuance of a demolition permit, findings shall be made in response to the criteria of **Section 5.0334(A)(1)-(4)**.
 3. When action is taken to approve a proposed demolition, a demolition permit shall be withheld pending expiration of the appeal period specified in **Section 11.1100**.

5.0336 Actions Affecting Landmark Objects

Proposed alterations affecting a non-building landmark, such as a monument, mile-post, or other object, shall be submitted to the Historic Resources Subcommittee and the Hearings Officer for review and approval prior to such alteration, pursuant to **Sections 5.0333** and **5.0334**. In addition to alterations and actions requiring a building permit, provisions of this section shall apply to proposals to remove, relocate, or otherwise alter the outward appearance of the object. A decision on a proposed alteration or other action affecting a landmark

object shall be based on the following criteria:

- A. Whenever possible, the object shall remain on the same parcel where it was located at the time of its designation as a landmark. Relocation to another parcel may be permitted when reliable evidence is submitted indicating that the object's original location was on a parcel other than its current location.
- B. Alterations or other actions which maintain or increase the visibility of the object shall be encouraged.

5.0340 Archaeological Resources and Sites North of Interstate 84

5.0341 Purpose

Archaeological resources must be protected and preserved in place subject to the requirements of federal, state, and local regulations, including the guidelines administered by the Oregon State Historic Preservation Office (SHPO) and ORS 358.905-358.962.

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 unless that activity is authorized by a permit issued under ORS 390.235; a violation of this is subject to a misdemeanor. Sites containing Native American human remains, sacred objects, and Objects of Cultural Patrimony are protected under ORS 97.740; a violation of this subject is a felony.

5.0342 Sites North of Interstate 84

In addition to specific landmark resource objects and sites identified in the Inventory of Historic and Cultural Landmarks, all property within the City lying north of Interstate Highway No. 84 shall be designated as a Historic and Cultural Landmarks Overlay District due to the likelihood of discovering archaeological sites and objects in this area. Within this area, the **Section 5.0343** provisions shall apply to development activities when archaeological sites or objects are discovered.

5.0343 Protection of Archaeological Resources

The following provisions shall apply to all development activities city-wide when archaeological sites or objects are discovered:

- A. When an archaeological site or object is discovered during the course of any development activity, development activity on the site shall be immediately suspended, and the property owner or his agent, employees, or contractors on the site shall notify the Manager.
- B. Following receipt of notice of discovery of an archaeological site or object, the Manager shall order all development activity on the site to be halted until the site can be assessed.
- C. The property owner shall retain the services of a qualified archaeologist to investigate the site, and prepare a report assessing the nature and significance of the site and any objects discovered. Pending completion of this investigation and report, all development activity on the site shall be suspended. The archaeologist will complete a report of their investigation and assessment, which shall include the following items:
 - 1. A description of the nature and significance of artifacts or other evidence of prehistoric activities discovered on the site, approximate boundaries of the archaeological site, and an analysis of the quality and quantity of the site and objects discovered.
 - 2. Recommendation as to site eligibility and whether the pending development activity should proceed as proposed, proceed with limitations or modifications, or continue to be suspended pending further study and/or mitigation.

- D. The archaeologist's report and recommendations shall be submitted to the State Historic Preservation Office (SHPO) for concurrence before ground disturbing activities may be allowed to proceed.
- E. Within five days after discovery of an archaeological site or object, the property owner shall furnish written notice, describing the location of the site and the nature of the items discovered, to the following parties:
 - 1. Department of Land Conservation and Development;
 - 2. State Historic Preservation Office;
 - 3. Commission on Indian Services;
 - 4. Oregon State Police (if discovery includes human remains);
 - 5. The Confederated Tribes of Grand Ronde;
 - 6. The Confederated Tribes of Siletz Indians;
 - 7. The Confederated Tribes of the Warm Springs Indian Reservation; and
 - 8. The Confederated Tribes and Bands of the Yakama Nation.

A copy of the mailed notice and address list, and a signed and notarized affidavit for the mailed notice shall be submitted to the Manager to demonstrate compliance with this section.

- F. If the Manager finds, based on evidence presented in the archaeologist's report, that the archaeological site lacks significance (not eligible), and SHPO concurs with the Manager's determination, the Manager shall permit the suspended development activity to resume in conformance with the development permits issued by the City, and subject to conformance with applicable state statutes regarding archaeological sites and objects.
- G. If the Manager determines, based on evidence presented in the archaeologist's report, that the archaeological site is significant and that some degree of protection is warranted, and SHPO concurs with the Manager's determination, the Manager, after consultation with SHPO, shall make findings as to measures which may be required such that adverse impacts to archaeological sites are avoided, minimized, or if not possible, mitigated. Such measures may include any of the following alternatives:
 - 1. Redesigning the proposed development so it would avoid the archaeological site;
 - 2. Leaving the archaeological site in its natural condition;
 - 3. Burial or other non-destructive covering of the archaeological site; or
 - 4. Where effects to the archaeological site cannot be avoided, mitigation measures based on consultation with SHPO and in compliance with applicable State regulations, including any additional permitting necessary.

An amended development permit may be required prior to the resumption of development activity on this site.

- H. An application for an amended development permit which may be required under **Section 5.0340** shall be submitted and processed under the same procedure as for the development activity which was in progress at the time of discovery of the archaeological site or object.
- I. No provisions of this section shall relieve an applicant or landowner of any relevant State or Federal statute or responsibility.