

# Chapter 358

## 1987 REPLACEMENT PART

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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]

358 020 [Renumbered 357 825]

358 030 [Amended by 1961 c 160 §20, renumbered 357 835]

358 040 [Renumbered 357 845]

358 050 [Amended by 1961 c 160 §21, renumbered 357 855]

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358 110 [Repealed by 1981 c 126 §6]

358 120 [Repealed by 1981 c 126 §6]

358 130 [Repealed by 1981 c 126 §6]

358 140 [Repealed by 1981 c 126 §6]

358 150 [Repealed by 1981 c 126 §6]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 Definitions for ORS 358.171 to 358.230.** As used in ORS 358 171 to 358 230, "county court" includes board of commissioners

358 170 [Amended by 1965 c 327 §1, repealed by 1983 c 350 §227, (358 171 enacted in lieu of 358 170)]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 and ORS 310 330 to 310 395

(7) An election under this section may be held only on the date of a state-wide general election [1983 c 350 §228 (enacted in lieu of 358 170)]

**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, a 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 (.0025) or such part thereof as is authorized by the electors of the county, of the true cash 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]

**358.190 Historical fund not subject to Local Budget Law or six percent limitation.** The county historical fund is not subject to the provisions of the Local Budget Law and shall be a continuing fund, the amounts levied therefor shall not be deemed to be within the limitation provided by section 11, Article XI of the Oregon Constitution

**358.200 Annual estimate of historical societies.** Upon the creation of a county histor-

ical 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 disbursement 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.

## COUNTY AND 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 Chairman and secretary of commission; duties of commission regarding records, rules, reports and budgets.** A museum commission shall

(1) Elect a chairman 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 chairman 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 employes 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 employes 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]

**Note** The amendments to 358 375 by section 78, chapter 267, Oregon Laws 1987, are repealed January 1, 1994 See section 82, chapter 267, Oregon Laws 1987 The text is set forth for the user's convenience

**358 375** (1) In the case of a city museum, and when authorized by the electors of the city voting at a biennial 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 biennial 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

**358.380 General bond law applicable to museum bonds.** The provisions of general law, including issuance procedures, relating to bond issues of cities shall apply to bonds issued under ORS 358 375 [1953 c 481 §17, 1983 c 260 §10]

**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 Mandatory provisions of revenue bonds.** Revenue bonds issued under ORS 358 375 shall

(1) Be in such denominations, mature at such times and bear such annual interest rate as the issuing body determines

(2) Provide for the semiannual payment of interest

(3) Contain a recital that the bonds and interest thereon are payable only from revenues resulting from museum operation and activities

(4) Contain a recital that the bonds and interest thereon shall not constitute a general obligation of the issuing authority

(5) Be in such form and be signed by such official or officials as the issuing body determines [1953 c 481 §20]

**358.400 Permissive provisions of revenue bonds.** Revenue bonds issued under ORS 358 375 may

(1) Have interest coupons attached, which coupons need only bear the facsimile signature of the official or officials designated to sign the coupons

(2) Contain such other terms and conditions as the issuing body determines [1953 c 481 §21]

**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 358.415 to 358.440.** For the purposes of ORS 358 420 to 358 440

(1) A "museum" is an institution located in Oregon and operated by a nonprofit corporation or public agency, primarily educational, scientific or aesthetic in purpose, which owns, borrows or cares for, and studies, archives or exhibits property

(2) The terms "loan," "loaned" and "on loan" include all deposits of property with a museum which are not accompanied by a transfer of title to the property

(3) "Property" includes all tangible objects, animate and inanimate, under a museum's care which 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]

**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 property acquired under ORS 358.420.** 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 of ORS 358.415 to 358.440.** 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]

### CLASSIFICATION OF HISTORIC PROPERTY

**358.475 Policy.** The Legislative Assembly hereby declares that it is in the best interest of the state to maintain and preserve properties of Oregon historical significance [1975 c 514 §1]

**358.480 Definitions for ORS 358.475 to 358.565.** As used in ORS 358 475 to 358 545, unless the context requires otherwise

(1) "Governing body" means the city or county legislative body having jurisdiction over the property for which a limited assessment may be applied for under ORS 358 475 to 358 545

(2) "Historic property" means real property that is currently listed in the National Register of Historic Places, established and maintained under the National Historic Preservation Act of 1966 (P L 89-665) or if the National Register of Historic Places ceases accepting nominations, the property is approved for listing on an Oregon register of historic places, that is open to the public for sight-seeing at least one day in each calendar year in accordance with rules adopted by the state historic preservation officer and that meets the minimum standards of maintenance established by rule of the state historic preservation officer

(3) "Owner" includes a purchaser under recorded instrument of sale [1975 c 514 §2, 1983 c 720 §1]

**358.485 Application for classification and assessment as historic property.** (1) An owner of historic property desiring classification and assessment under ORS 358 475 to 358 545 shall make application to the county assessor upon forms approved by the Department of Revenue and consent in writing to the viewing of the property by the state historic preservation officer and the State Advisory Committee on Historic Preservation Applications shall be made prior to December 31, 1975, for classification for the assessment year commencing January 1, 1976, and thereafter applications to the county assessor shall be made during the calendar year preceding the first assessment year for which classification is requested, except that no application shall be made under this subsection after December 31, 1983 Application for classification shall be granted only for those 15 consecutive assessment years immediately following the calendar year in which the application is made

(2) On and after January 1, 1984, an owner of historic property desiring classification and assessment under ORS 358 475 to 358 545 for the property shall make application to the state historic preservation officer on forms approved by the state historic preservation officer The forms shall include or be accompanied by the written consent of the owner to the viewing of the property by the state historic preservation officer and by the State Advisory Committee on Historic Preservation Except as provided in subsection

(3) of this section, applications shall be made on or before December 31, 1984, for classification for the assessment year commencing January 1, 1985, and thereafter applications shall be made during the calendar year preceding the first assessment year for which classification is requested The state historic preservation officer shall immediately send a copy of any application to the appropriate county assessor and governing body Applications for classification shall be granted only for those 15 consecutive assessment years immediately following the calendar year in which the application is made

(3) An owner may make preliminary application for classification of property as historic upon approval by the State Advisory Committee on Historic Preservation of the nomination of the property for listing on the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the nomination of the property for listing on an Oregon register of historic places The preliminary application shall be considered an application made or received for purposes of subsection (2) of this section, ORS 358 490 or 358 495, or other law, if the property is actually listed in the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the property is approved for listing on an Oregon register of historic places by March 15 of the year following preliminary application If the property is not listed on the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the property is not approved for listing on an Oregon register of historic places by March 15 of the year following preliminary application, then the preliminary application shall be considered an application made or received for purposes of subsection (2) of this section, ORS 358 490, 358 495 or other law, on the date the property is actually listed

(4) Immediately upon receipt of a copy of the application under subsection (2) 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 classification to the state historic preservation officer

(5) Immediately upon receipt of a copy of the application under subsection (2) 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 state historic preservation officer

(6) By making application for classification and assessment under ORS 358 475 to 358 545, the owner consents that the state historic preservation officer have access to the property for inspection at reasonable times to insure that the terms of the national register or other federal or state laws or requirements are being met

(7) The application for classification and assessment under ORS 358 475 to 358 545 shall not be processed unless accompanied by a nonrefundable fee of one-tenth of one percent of the assessed value of the property for the year in which application is made. The fee shall be deposited in the Highway Fund for use by the Administrator of the Parks and Recreation Division 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 [1975 c 514 §3, 1983 c 720 §3]

**Note** Section 15, chapter 514 Oregon Laws 1975, provides

**Sec 1** Section 15, chapter 514, Oregon Laws 1975, as amended by section 2 chapter 346 Oregon Laws 1979, is further amended to read

**Sec 15** Notwithstanding ORS 358 485, no application may be made under ORS 358 475 to 358 545 after December 31, 1993 [1975 c 514 §15, 1979 c 346 §2, 1985 c 321 §1]

**358.490 Referral of application to state historic preservation officer; review, approval in whole or part; withdrawal.** (1) Within 10 days after the filing of an application filed before January 1, 1984, the county assessor shall refer each application for classification to the state historic preservation officer. Following referral, or after an application is filed under ORS 358 485 (2) or (3), the State Advisory Committee on Historic Preservation shall review the application and may view the premises. The state historic preservation officer shall not disapprove the application solely because of the potential loss of revenue that may result from granting the application if the state historic preservation officer finds that the property is historic property

(2) During the review process, the state historic preservation officer shall consider the county assessor's and governing body's recommendations submitted under ORS 358 485 (4) and (5)

(3) The state historic preservation officer may approve the application with respect to only part of the property which is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the application [1975 c 514 §4, 1983 c 720 §4]

**358.495 Notice of approval or disapproval; effect of approval; request for hearing.** (1) Immediately following approval or disapproval of an application under ORS 358 490, the state historic preservation officer shall notify the county assessor and the applicant which shall in no event be later than April 1 of the year following the year that the application is considered received under ORS 358 485. An application not denied by April 1 shall be deemed approved, and the property which is the subject of the application shall be considered to be historic property which qualifies under ORS 358 475 to 358 545

(2) When the state historic preservation officer determines that the historic property qualifies under ORS 358 475 to 358 545, the state historic preservation officer shall certify that fact in writing and shall file a copy of the certificate with the county assessor within 10 days. The certificate shall state the facts upon which the approval was based. The county assessor, as to any such historic property, shall assess on the basis provided in ORS 358 505, and each year the historic property is classified and so assessed shall also 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)"

(3) Any owner or county assessor affected by a determination of the state historic preservation officer made under ORS 358 475 to 358 565 may request a contested case hearing before the state historic preservation officer according to the provisions of ORS 183 310 to 183 550 [1975 c 514 §5, 1983 c 720 §5]

**358 502** [1957 c 196 §1, repealed by 1957 c 196 §10]

**358 504** [1957 c 196 §3, repealed by 1957 c 196 §10]

**358.505 Entitlement of property to special assessment.** (1) For purposes of ORS 308 232, the county assessor shall, for the 15 consecutive assessment years elected under ORS 358 485, value property classified as historic property at the true cash value of the property at the time application under ORS 358 485 was made

(2) The entitlement of property to the special assessment provisions of this section shall be determined as of January 1. However, if property so qualified becomes disqualified prior to July 1 of the same year, it shall be valued under ORS 308 232 at its true cash value as defined by law without regard to this section. If the property becomes disqualified on or after July 1, its assess-

ment for that year shall continue as provided in this section

(3) True cash value, as defined and determined under ORS 308 205 and 308 235, shall be determined for property classified as historic property by the county assessor each year. The true cash value so determined for any year shall be subject to appeal to the county board of equalization within the time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the Department of Revenue, 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]

**358 506** [1957 c 196 §4, repealed by 1957 c 196 §10]

**358 508** [1957 c 196 §5, repealed by 1957 c 196 §10]

**358.509 Review of continued qualification of property by state historic preservation officer.** If the county assessor or State Advisory Committee on Historic Preservation has reason to believe that property classified as historic property is not being maintained or preserved as required under the National Historic Preservation Act of 1966 (P L 89-665) or as required under rules established by the state historic preservation officer or otherwise no longer qualifies for classification and special assessment as historic property, the county assessor or State Advisory Committee on Historic Preservation shall request the state historic preservation officer to determine if the property continues to qualify. The request shall be in writing. Upon receipt of the request, the state historic preservation officer shall inspect the property and may take whatever steps are necessary to determine if the property continues to qualify for special assessment including a request for a report under ORS 358 535. The state historic preservation officer shall notify the county assessor of the determination made pursuant to the request of the assessor within 120 days after the request is received. A determination by the state historic preservation officer that the property no longer qualifies shall constitute a discovery described in ORS 358 515 (1)(c) [1979 c 346 §4, 1983 c 720 §7]

**358 510** [Repealed by 1957 c 196 §2]

**358 512** [1957 c 196 §6, repealed by 1957 c 196 §10]

**358 514** [1957 c 196 §7, repealed by 1957 c 196 §10]

**358.515 Loss of special assessment; effect of sale or transfer, notice to assessor when property ceases to qualify.** (1) When property has once been classified and assessed as

historic property under ORS 358 475 to 358 545, it shall remain so classified and be granted the special assessment provided by ORS 358 505 until the property becomes disqualified for such classification and assessment by

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

(b) Sale or transfer to an ownership making it exempt from property taxation

(c) Removal of the special assessment by the assessor upon discovery that the property no longer qualifies as historic property

(2) The sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to disqualify the property from the special assessment provided by ORS 358 505 so long as the property continues to qualify as historic property as defined in ORS 358 480

(3) When, for any reason, the property or any portion thereof ceases to qualify as historic property as defined in ORS 358 480, 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 date [1975 c 514 §7, 1979 c 346 §1, 1983 c 720 §8]

**358 516** [1957 c 196 §10, repealed by 1957 c 196 §10]

**358 520** [Renumbered 390 220]

**358.525 Imposition of penalty when property disqualified; exception.** (1) Except as provided in subsection (4) of this section, whenever property which has received special assessment as historic property under ORS 358 505 thereafter becomes disqualified for such assessment as provided in ORS 358 515, 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 real property tax, a penalty equal to 15 times (or such lesser number of times, corresponding to the years of assessment as historic property applicable to the property) the total amount by which the taxes assessed against the property would have been increased if it had been valued without regard to ORS 358 505 as of January 1 of the assessment year for which special assessment as historic property was last in effect for the property

(2) Whenever property that has received special assessment as historic property under ORS 358 505 becomes disqualified for such assessment and either notice required by ORS 358 515 (3) is not given, the assessor shall determine the date that the notice should have been given, shall notify the owner thereof and notwithstanding

ORS 311 220, 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, a penalty equal to the sum of the following

(a) The difference between the total taxes due on the property during the last year in which special assessment under ORS 358 505 was in effect for the property (even though erroneously) and the taxes which would have been due had special assessment not been in effect, multiplied by

(b) The number of years that the special assessment was properly in effect for the property plus the number of years that special assessment was in effect for the property after notice should have been given under ORS 358 515 (3), plus

(c) An additional penalty of 15 percent of the product of paragraphs (a) and (b) of this subsection

(3) Prior to adding to the tax extended against the property on the next general property tax roll of a penalty imposed by subsection (1) or (2) of this section, in the case of disqualification pursuant to ORS 358 515 (1)(c), the assessor shall notify the owner of the property by mail, return receipt requested, of the disqualification

(4) No penalty shall be imposed under subsection (1) or (2) of this section upon the sale or transfer to an ownership making it exempt from property taxation. No penalty shall be imposed under subsection (1) or (2) of this section if the historic property is destroyed by fire or act of God

(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 [1975 c 514 §8, 1979 c 350 §18, 1983 c 720 §9]

**358 530** [Repealed by 1959 c 242 §1]

**358.535 Reports from owners; effect of failure to comply.** The state historic preservation officer shall at all times be authorized to demand and receive reports from owners of property classified under ORS 358 475 to 358 545 as to the continued qualification of the same for classification as historic property. If the owner shall fail, after 90 days' written notice by mail, return receipt requested, to comply with such demand, the state historic preservation officer shall immediately notify the assessor and the assessor shall withdraw the property from classification and apply the penalties provided by ORS 358 525 [1975 c 514 §9]

**358.540 Effect of classification and assessment as historic property on exemptions or other special assessments.** (1) Property classified as historic property shall not be entitled to any other exemption or special assessment provided by law

(2) Nothing in ORS 358 475 to 358 545 shall be construed to deny classification as historic property to property that has been classified as historic one or more times previous to the date of the current application from again being classified as historic and receiving the special assessment granted under ORS 358 475 to 358 545 if

(a) The property was removed from the previous classification under ORS 358 515 each time that it was so classified, and

(b) Upon removal, the additional taxes, interest and penalties provided under ORS 358 525 were paid in full for each year that the property was so classified and granted the special assessed value under ORS 358 505 prior to its removal [1975 c 514 §10, 1983 c 720 §10]

**358.543 Effect of new construction on historic classification; notice.** (1) Any additions made that are historically accurate reconstructions of once extant features or necessary for safety or handicapped access or required by safety code requirements may be classified as not being "new construction" by the state historic preservation officer if the state historic preservation officer so determines after request is made by the owner

(2) If new construction takes place on or after October 15, 1983, with respect to property for which a certificate already has been filed under ORS 358 495 (2), the new construction shall not be considered classified as historic nor shall the new construction receive the special valuation accorded historic property under ORS 358 505. The new construction shall be valued for ad valorem property tax purposes at its true cash value and shall be assessed at the percentage of its true cash value provided in ORS 308 232

(3) Any notice required under ORS 308 025 to be sent by a public official or agency with regard to a change in classification to or from historic property classification shall be given by the county assessor rather than the state historic preservation officer

(4) As used in this section, "new construction" includes, but is not limited to

(a) An additional new building, structure or other improvement outside the building envelope, including but not limited to a parking area to be or in use for commercial purposes

(b) An enlargement of the exterior perimeters of an existing building, structure or improvement

(c) Any story or stories added to an existing building, structure or improvement [1983 c 720 §§12, 13]

**358.545 Rules of state historic preservation officer.** The person designated as state historic preservation officer under ORS 358 565 shall adopt rules, pursuant to ORS 183 310 to 183 550, with regard to the determination of entitlement of historic properties to the special assessment accorded by ORS 358 475 to 358 545. The rules shall

(1) Encompass requirements for allowance and substantiation of public sight-seeing of historic property classified under ORS 358 475 to 358 545,

(2) Provide minimum maintenance standards for the property, and

(3) Delineate any other matters necessary to carry out the purposes of ORS 358 475 to 358 545 [1975 c 514 §11]

**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 358 475 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]

## 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.** (1) Shall conduct or cause to have conducted a comprehensive, state-wide 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 state-wide historic preservation plan to assist local governments in developing their preservation programs and participate in the national program,

(3) Shall maintain a state-wide 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 edu-

cation 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, state-wide 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 Rulemaking.** Pursuant to ORS 183 310 to 183 550, 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 Definition of "state agency."**

As used in ORS 358 635 to 358 655, "state agency" includes all officers, employes, agencies, boards, committees and commissions of the legislative, executive, administrative and judicial branches of state government [1979 c 205 §5]

**358.640 State property of historical significance; catalog; recommendations to state agency.** (1) The Department of General Services shall identify and catalog state-owned real property and personal property which has state or national historic significance.

(2) The department shall make recommendations to any state agency or political subdivision that possesses historically significant real property or personal property relating to its retention, preservation, maintenance, use or transfer to the custody of any public or private agency or person.

(3) Real property found to be of historic significance pursuant to ORS 358 645 shall be entered into the State Register of Historic Places if one is established [1979 c 205 §1, 1983 c 295 §2]

**358.645 Private property of historic significance; catalog; recommendations to state agencies.** (1) A private owner of real property or personal property believed to have state or national historic significance which the

owner wishes to give to the state or to a political subdivision may request review of the significance of the property by the Department of General Services

(2) The department shall

(a) Identify and catalog historically significant property, and

(b) Make recommendations to appropriate state agencies or political subdivisions regarding acceptance, preservation, maintenance and use of historically significant property [1979 c 205 §2, 1983 c 295 §3]

**358.650 Acceptance of private property as gift to state; custody.** (1) Whenever a prospective donor of real or personal property identified as historically significant pursuant to ORS 358 645 requires immediate acceptance of the property as a condition of a gift, the Department of General Services 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 Department of General Services 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 department shall not enter into any lease-back arrangement the effect of which would be to remove real property from the tax rolls but allow the donor to continue to use the property unless the department makes payments in lieu of taxes otherwise assessable against the property [1979 c 205 §3, 1983 c 295 §4]

**358.653 Conservation program; leases.** (1) The Department of General Services or political subdivision responsible for real property of historic significance 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) The Department of General Services 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 Department of General 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]

**358.655 Advisory committee.** The Secretary of State, in consultation with interested persons and organizations, shall appoint an advisory committee to assist in carrying out the duties of the department under ORS 358 635 to 358 655 The Secretary of State shall serve as chairperson of the advisory committee [1979 c 205 §4, 1987 c 883 §1]

### 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) "Administrator" means the Administrator of the Parks and Recreation Division

(2) "Committee" means the State Advisory Committee on Historic Preservation established in ORS 358 622

(3) "Division" means the Parks and Recreation Division

(4) "Oregon Property Management Program" means the program established in ORS 358 683

(5) "State Historic Preservation Officer" means the officer designated under ORS 358 565 [1983 c 231 §1]

**358.683 Oregon Property Management Program.** (1) The administrator, 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 administrator and the committee shall coordinate activities concerning historic properties with the State Historic Preservation Officer

(3) In accordance with any applicable provision of ORS 183 310 to 183 550, the administrator may promulgate rules to carry out the provisions of the Oregon Property Management Program [1983 c 231 §3]

**358.685 Duties of administrator.** In addition to any other duties or powers provided by law, the administrator may, with the advice of the committee

(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 administrator 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]

**358.687 Reports.** (1) The administrator shall report biennially to the Governor and to the Legislative Assembly on committee activities during the preceding biennium. The admin-

istrator 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 administrator considers appropriate, and shall contain the information required by the Governor or the Legislative Assembly [1983 c 231 §2]

**358.690 Oregon Property Management Account.** (1) The Oregon Property Management Account is established as a separate account in the State Highway Fund established in ORS 366 505. 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 not be subject to the appropriations provided for in ORS 366 525 to 366 540 and 366 785 to 366 820

(4) Moneys in the Oregon Property Management Account shall be accounted for separately and shall be stated separately in the Parks and Recreation Division biennial budget [1983 c 231 §5]

## GRANTS FOR MUSEUMS

**358.710 "Museum" defined.** As used in ORS 358 710 to 358 770, unless the context requires otherwise, "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 things which relate to history, anthropology, archaeology, science or art and have historical significance [1965 c 572 §2, 1973 c 757 §9, 1981 c 165 §1]

**358.720 Purpose of ORS 358.710 to 358.770.** It is the purpose of ORS 358 710 to 358 770 to encourage the maintenance, expansion and improvement of museum services for the education and enjoyment of the people throughout the state [1965 c 572 §3, 1981 c 165 §2]

**358.730 Duties of Tourism Division relating to museums.** In addition to the other duties of the Tourism Division of the Economic Development Department, the division shall

(1) Make annual matching fund grants to museums for maintaining, expanding or improving museum services,

(2) Request the Oregon Historical Society, with the assistance of the Oregon Museums Association, to establish minimum standards for museum services,

(3) Request the Oregon Historical Society, with the assistance of the Oregon Museums Association, to determine the eligibility for and the amounts of matching fund grants,

(4) Advise, upon request, museum governing bodies, county governing bodies, city governing bodies and interested citizens of the availability of matching fund grants, and

(5) Adopt, with advice of the Oregon Historical Society and the Oregon Museums Association, rules to carry out the grant program under ORS 358 710 to 358 770 [1965 c 572 §4, 1981 c 165 §3, 1983 c 324 §14]

**358.740 Qualifications for grant.** To qualify for a matching fund grant a museum shall

(1) Be operated in accordance with minimum standards for museum services established by the Oregon Historical Society with the assistance of the Oregon Museums Association,

(2) Be in operation for a period of two years,

(3) Provide museum services to the public at designated and reasonable hours and place, and

(4) Have a responsible, competent attendant on duty when museum services are provided to the public [1965 c 572 §§5, 10, 1981 c 165 §4]

**358.750 Procedure to obtain grant.** To obtain a matching fund grant authorized by ORS 358 730, the museum governing body shall apply to the Tourism Division of the Economic Development Department. The application shall

(1) Include a detailed statement of the amount and source of funds expended for museum services during the preceding year,

(2) Include a report of museum services provided during the preceding year,

(3) Include or have attached the recommendations of the Oregon Historical Society and the Oregon Museums Association relating to museum services of the applicant, and

(4) Include such other information as may be required by the division [1965 c 572 §6, 1981 c 165 §5, 1983 c 324 §15]

**358.760 Expenditure of matching grant funds.** (1) Moneys appropriated to the Tourism Division of the Economic Development Department for matching grant funds under ORS 358 710 to 358 770 shall be apportioned to museums based on recommendations of the Oregon Historical Society and the Oregon Museums Association

(2) Upon approval of the request of a museum governing body, the Tourism Division shall enter into a matching fund relationship with the museum governing body to reimburse the museum governing body for funds used during the preceding year to provide museum services

(3) The matching fund grant authorized by ORS 358 730 shall be up to 50 percent of the amount expended for museum services during the preceding year, but the amount shall not exceed \$5,000 for any year

(4) Money received by a museum governing board from the state matching fund grant for museums shall not be considered a portion of the contribution of the museum for the purpose of determining the amount for which the museum is eligible in the ensuing year [1965 c 572 §7, 1981 c 165 §6, 1983 c 324 §16]

**358.770 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 [1965 c 572 §9, 1981 c 165 §7]

#### LOCAL SYMPHONIES AND BANDS

**358 810** [Formerly 357 910, 1979 c 712 §2, repealed by 1981 c 126 §6]

**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, within or without the six percent limitation, for the purpose of maintaining and employing one major symphony orchestra, one band, and one junior symphony orchestra [Formerly 357 920]

**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 and ORS 310 330 to 310 395

(6) An election under this section shall be held only at the time of a state-wide general election [1983 c 350 §231 (enacted in lieu of 358 830)]

**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 an Oregon State Maritime Museum The activities of the museum pertaining to its function as an 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 358 710 to 358 770 [1981 c 480 §1]

### ARCHAEOLOGICAL OBJECTS AND SITES

**358.905 Definitions for ORS 358.905 to 358.955** As used in ORS 192 005, 192 501 to 192 505, 273 705 and 358 905 to 358 955

(1) "Archaeological object" means an object that

- (a) Is at least 75 years old,
- (b) Comprises the physical record of an indigenous and subsequent culture, 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

(2) "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

- (a) Each other, or
  - (b) Biotic or geological remains or deposits
- (3) "Indian tribe" has the meaning given that term in ORS 97 740

(4) "Police officer" has the meaning given that term in ORS 181 610

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

(6) "Sacred object" means an archaeological object that

- (a) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy, and
- (b) Was or is used in connection with the religious or spiritual service or worship of a deity or spirit power [1983 c 620 §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 the property 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 archaeological heritage of this state against neglect, destruction and misappropriation [1983 c 620 §2]

**358.915 Application.** The provisions of ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 do not apply to a person who unintentionally discovers an archaeological object on public land or private property and retains the object for personal use [1983 c 620 §15]

**358.920 Prohibited conduct.** (1) A person may not excavate, injure, destroy or alter an archaeological site or systematically remove an archaeological object located on public lands in Oregon unless that activity is authorized by a permit issued under ORS 273 705

(2) A person may not sell or purchase, or offer to sell or purchase, 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 person may not sell or offer to sell any archaeological object unless the person furnishes the purchaser a certificate of origin to accompany the object that is being sold or offered for sale

(4) As used in subsection (3) of this section, "certificate of origin" means

(a) If the archaeological object was acquired after October 15, 1983, a statement that discloses

(A) The location from which the archaeological object was removed, and

(B) That the object was obtained according to the provisions of ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955, or

(b) If the archaeological object was acquired before October 15, 1983, a statement that the object was acquired before October 15, 1983

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

(5) This section does not apply to a person who disturbs an Indian cairn or grave. Any person who disturbs an Indian cairn or grave for any reason shall comply with the provisions of ORS 97 740 to 97 750 [1983 c 620 §3]

**358.925 Seizure of archaeological objects; forfeiture; procedure.** (1) All archaeological objects or proceeds from the sale of archaeological objects in the possession of any person in violation of the provisions of ORS 273 705, 358 905, 358 910 or 358 920 to 358 955 shall be seized by any police officer

(2) All property, real or personal, including money, used in the course of, derived from or realized through conduct in violation of a provision of ORS 273 705, 358 905, 358.910 or 358 920 to 358 955 is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons

(3) 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 in a forfeiture proceeding based upon this section

(4) 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

(5) The Attorney General, any district attorney or any state agency having jurisdiction over conduct in violation of a provision of ORS 273 705, 358.905, 358.910 and 358 920 to 358 955 may institute civil proceedings under this section. 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 satisfac-

tory performance bonds, as the court may deem proper

(6)(a) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this section

(b) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds

(7) A final judgment or decree rendered in favor of the state in any criminal proceeding for a violation of ORS 273 705, 358 905, 358 910 and 358 920 to 358 955 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 or decree would be an estoppel as between the state and the defendant

(8) Notwithstanding any other provision of law, a criminal or civil action or proceeding for a violation of ORS 273 705, 358 905, 358 910 and 358 920 to 358 955 may be commenced at any time within five years after the conduct in violation of a provision of ORS 273 705, 358 905, 358 910 and 358 920 to 358 955 terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent or restrain any violation of the provisions of ORS 273 705, 358 905, 358 910 and 358 920 to 358 955, the running of the period of limitations prescribed by this section with respect to any cause of action arising under ORS 358 955 which 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

(9) The application of one civil remedy under any provision of ORS 273 705, 358 905, 358 910 and 358 920 to 358 955 shall not preclude the application of any other remedy, civil or criminal, under ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 or any other provision of law. Civil remedies under ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 are supplemental and not mutually exclusive [1983 c 620 §4]

**358.930 Return of property to owner; surety.** (1) At any time after property is seized under ORS 358 925, but before the entry of judgment, the owner of the seized property may require the return thereof upon giving to the court a written undertaking, executed by sufficient surety, approved by the court to the effect that such surety is bound in double the value of the property as determined by the court, for the

delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to the plaintiff of such sum as may, for any cause, be recovered against the owner. The owner shall file such written undertaking with the clerk of the court for the county in which the seizure occurred and shall serve a true copy thereof upon the district attorney for the same county.

(2) If confiscation or forfeiture of such property is required by a judgment of the court under ORS 358 925, the owner shall return the property to the plaintiff. If the owner fails to return the property, any police officer may maintain an action upon such undertaking [1983 c 620 §5]

### **358.935 Preservation of seized objects.**

(1) Any archaeological object or proceeds seized under the provisions of ORS 358 925 shall be preserved and retained. At the time the court sentences the defendant or orders bail forfeited in the criminal prosecution for violation of the archaeology laws, the court may order that any archaeological object or proceeds from the sale of an archaeological object seized under ORS 358 925 shall be forfeited. Any archaeological object seized under the provisions of ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 shall be retained by the state and deposited in the Oregon State Museum of Anthropology.

(2) If the archaeological objects or proceeds seized under ORS 358 925 are not subsequently forfeited, the state historic preservation office shall return or arrange for the return of the objects or proceeds, as the case may be, to the person from whom they were seized [1983 c 620 §6]

**358.940 Reinterment of remains.** A person who disturbs native Indian remains at or associated with an archaeological site shall reinter those remains under the supervision of an Indian tribe as provided in ORS 97 750 (2) and (3) [1983 c 620 §7]

**358.945 Notice required upon finding of sacred object; exception.** (1) If a person who is conducting an archaeological investigation on public lands according to the provisions of ORS 273 705 or on private land with the owner's written permission finds a sacred object, the person conducting the archaeological investigation shall notify in writing

(a) The state historic preservation office, and

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

(2) If a sacred object is recovered on public land, the state historic preservation office shall

authorize the appropriate group to repossess the sacred object

(3) This section does not apply to the contents of an Indian cairn or grave regulated under ORS 97 740 to 97 750 [1983 c 620 §8]

**358.950 When notice to Indian tribe required; report.** (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 [1983 c 620 §9, 1985 c 198 §4]

**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 273 705, 358 920, 358 945 or 358 950. In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief in other civil cases, except that no showing of special or irreparable damage to the person shall have to be made. 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

(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.

(4) The application of one civil remedy under any provision of ORS 192 005, 192 501 to

192 505, 273 705, 273 990 and 358 905 to 358 955 shall not preclude the application of any other remedy under ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 or any other provision of statutory or common law. Civil remedies under ORS 192 005, 192 501 to 192 505, 273 705, 273 990 and 358 905 to 358 955 are supplemental and not mutually exclusive. [1983 c 620 §10]

