

GENERAL ORDINANCE NO. 94-1194

**AN ORDINANCE RELATING TO THE HISTORIC RESOURCES
WITHIN THE CITY OF THE DALLES**

THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Purpose. The Council finds it in the public interest to preserve the historic and cultural resources of The Dalles, and to achieve that end, hereby establishes a Historic Landmarks Commission.

The purposes of this ordinance are to:

- A. Protect historic and cultural resources from destruction, inappropriate alteration, and incompatible adjacent development;
- B. Stabilize and improve property values in historic districts and city-wide;
- C. Enhance the City's attractiveness to visitors and residents, and stimulate business, industry, and tourism;
- D. Educate The Dalles' citizens and visitors concerning the City's heritage;
- E. Preserve the historic housing stock of The Dalles; and
- F. To comply with The Dalles Comprehensive Plan regarding historic resources under Statewide Planning Goal 5.

Section 2. Definitions.

- A. Alteration is defined under the following subcategories:
 - 1. Addition/removal: the addition to, removal of or from, or physical modification or repair of, any exterior part or portion of a historic resource designated pursuant to this ordinance;
 - 2. New construction: the construction of a new building within a designated historic district;
 - 3. Relocation: the process of removing and relocating a designated historic resource, including the removing and relocating of any non-historic resource within a designated historic district; and

4. Demolition: to raze, destroy, dismantle, deface, or in any other manner, cause partial or total ruin of a designated historic resource, including the destruction of any non-historic resource within a designated historic district.
- B. Director: The Community and Economic Development Director (Planning Director) or his duly appointed designee.
 - C. Exterior: All outside features of a historic landmark, individually or within a historic district.
 - D. Historic Landmark: A historic resource that has been so designated by The Dalles Historic Landmarks Commission due to findings of significance.
 - E. Historic Resources include, but are not limited to the following definitions and examples by subcategories:
 1. Building: any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, animal or article. Examples of buildings include houses, barns, stables, sheds, garages, courthouses, city halls, social halls, schools, stores, churches, etc.;
 2. District: a geographic area possessing a significant concentration, linkage, continuity or design relationship of historically significant sites, structures, landscape features, or objects unified by past events or physical development. Examples of districts include college campuses, central business districts, residential areas, commercial areas, industrial complexes, civic centers, etc.;
 3. Landscape: the natural and/or built environment, setting, or composition. Examples of landscapes include trees, vines, gardens, fountains, reflective pools, art work, walls, etc., and often the combination of several such elements;
 4. Object: a significant physical element within the environment that can be seen and recorded. Examples of objects include sculpture, monuments, boundary markers, statuary, and fountains;
 5. Site: a physical place of significance. Sites can include rock shelters, village sites, hunting and fishing sites, petroglyphs, rock carvings, ruins, campsites, sites of treaty signings, cemeteries, designed landscapes, natural features, and land areas having cultural significance; and

6. Structure: anything constructed or erected which requires location on, within or above the land. Examples of structures include bridges, tunnels, canals, dams, power plants, silos, roadways, grain elevators, mounds, boats and ships, railroad locomotives and cars, aircraft, etc.

F. Significance is defined under the following subcategories:

1. Architectural significance means a resource embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or is a representative of the notable work of a builder, designer, or architect;
2. Historical significance means a resource exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history; is identified with persons or events significant in local, state, or national history; or is prehistoric.

G. Treatments are defined as follows:

1. Preservation is the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project;
2. Reconstruction is the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location;
3. Rehabilitation is the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values; and

4. Restoration is the act or process of accurately depicting the form, features,

and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

Section 3. The Dalles Historic Landmarks Commission. This Commission shall consist of six members; five of which are from the citizens at large entitled to one vote, one member of The Dalles/Wasco County Museum Commission (advisory - no vote). All members shall serve a term of four years. Any vacancy occurring in a position for any reason other than the expiration of the term shall be filled by appointment by the Mayor, subject to Council approval, for the remainder of the term.

Section 4. Powers and Duties of the Commission.

A. The Commission shall:

1. Designate historic landmarks pursuant to the procedures and criteria in this ordinance;
2. Review alterations to designated historic landmarks pursuant to the procedures and criteria in this ordinance;
3. Develop and periodically update written and graphic design guidelines to further clarify the intent of this ordinance;
4. Maintain current inventories of historic resources;
5. Meet monthly to conduct business, however, the Chairman or Secretary may cancel a meeting due to lack of business or schedule special meetings as needed;
6. Decide matters by majority vote, with three members of the Commission constituting a quorum; and
7. Submit an annual report to the Mayor and City Council by February 1st.

B. The Commission may:

1. Adopt such rules and regulations as it finds necessary or appropriate to carry out the intent of this ordinance;

2. Establish a revolving loan fund for rehabilitation of designated historic landmarks;
3. Cooperate with other organizations and agencies in promoting the preservation of designated landmarks and other historic resources of The Dalles;
4. Develop educational materials explaining the history of The Dalles and relating it to the historic resources of the City;
5. Apply for, accept and administer granted or donated funds to carry out the stated purposes of this ordinance; and
6. Perform other functions identified in the Commission's annual work program or as directed by the City Council.

Section 5. Procedures for Designation of and, Review of Proposed Alterations to Historic Landmarks.

A. Procedures.

1. The Commission may approve, approve with conditions, or deny an application to designate, or remove designation from, a historic landmark, pursuant to the criteria listed in Section 6.
2. The Commission may approve, approve with conditions, or deny any application to alter a designated historic landmark pursuant to the criteria listed in Section 7.
3. Completed applications shall contain a signed application form together with photographs, drawings, literature excerpts or any other type of documentation in support of the request for addition/deletion of the landmark or alteration to a designated landmark. No application fee will be charged for either application.
4. The Commission may propose the addition designation or removal of designation of a landmark on its own motion. The Commission may rely upon any information it deems adequate in making such a proposal.

5. Upon receipt of a completed application or a motion from the Commission, the Director shall schedule a public hearing and cause public notice of the upcoming hearing to be served, unless the application is

considered to be “minor”.

6. Minor alterations may be approved by the Director at his or her discretion without public notice, or may be elevated to the Commission. Any administrative decision of the Director shall be made in writing, giving the reason for the “minor” classification and the decision, and shall be copied to the Commission. In granting an administrative approval, the Director may attach such conditions as he/she deems necessary to protect the resource. Minor alterations include:

- (a) repainting original colors on designated resources;
- (b) painting of non contributing resources within a district;
- (c) exterior repairs of an emergency nature (i.e. gutters, roofing);
- (d) fencing or other exterior landscape alteration;
- (e) sign installation or removal; and
- (f) other alterations specified by the Commission.

7. Notice of Public Hearings:

- (a) Landmark designation of single or group resource. Hearings on proposals to designate or remove designation of a resource or small group of related resources (other than a district) shall be held only after written notice of the proposed action is mailed to the subject property owner(s) and abutting property owners no later than 10 days prior to the hearing.
- (b) Landmark designation of Historic District. A public hearing for the proposed historic district designation shall be legislative in nature. Written notice shall be published in a local newspaper of general circulation and mailed to all property owners within the district and to abutting property owners outside the proposed district, all no later than 10 days prior to the hearing date. In addition, a written memo shall be provided to the Planning Commission, City Council, and the Oregon State Historic Preservation Office.

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- (c) Alteration. Any public hearing to consider a request to alter a designated landmark, or building or other resource within a designated district shall be quasi-judicial in nature. Written notice

shall be published in a local newspaper of general circulation and mailed to property owners within 100' of the subject parcel no later than 10 days prior to the hearing date.

- (d) Demolition. Any public hearing to consider a request to demolish a landmark, or building or other resource within a designated district shall be quasi-judicial in nature. In addition to the notice requirements for alteration above: the notice shall be mailed at least 20 days prior to the hearing; the newspaper publication shall appear two consecutive weeks with the first being at least 20 days prior to the hearing; and additional notice shall be sent to the Oregon State Historic

8. Contents of Public Notice. All written public notices shall contain:

- (a) the applicant(s) name and address;
- (b) a general description of the resource location(s) by address and/or assessor's map number;
- (c) a brief explanation of the resource and its reported significance or loss of significance and where applicable a description of the proposed alteration;
- (d) a summary of the approval criteria;
- (e) the time, date, and place set for the hearing;
- (f) an invitation for public comments to be delivered in writing prior to the hearing or in person at the hearing;
- (g) the name and telephone number of a staff person that may be contacted regarding the proposal; and
- (h) in the case of a quasi-judicial hearing, any additional statutory notice requirements shall be met.

Section 6. Criteria for Landmark Designation of Historic Resources.

- A. Review Criteria. The Commission shall review all applications for historic landmark or district designation and make its final determination at a public hearing based on at least one of the following criteria.

1. The proposed landmark or district has historic significance or contributes to the historic resources of the community because it is:
 - (a) Associated with past trends, events, or values that have made a significant contribution to the economic, cultural, social and/or political history of city, county, state, region, or nation;
 - (b) Associated with the life of or activities of a person, group, or organization, or institution that has made a significant contribution to the city, county, region, state, or nation.

2. The proposed landmark or district has architectural significance because it:
 - (a) Embodies distinguishing architectural characteristics of a period, style, method of construction, craftsmanship, or materials;
 - (b) Represents the work of a designer, architect, or master builder who influenced the development and appearance of history of the city, county, region, state, or nation;
 - (c) Is the only remaining, or one of few remaining resources of a particular style, building type, design, material, or method of construction;
 - (d) Has a high quality of composition, detailing, and/or craftsmanship.

3. The site contains archeological artifacts related to prehistory or to the early history of the community.

4. The proposed landmark or district is listed on the National Register of Historic Places.

5. In conjunction with other criteria listed above, the proposed landmark:
 - (a) is listed on the State Inventory of Historic Places;

- (b) is fifty years old or older unless the resource is of exemplary architectural or historical significance;
- (c) contributes to the continuity or historic character of the street,

neighborhood, and/or community;

- (d) has sufficient original workmanship and materials remaining to show the construction technique and stylistic character of a given period.

B. Removal of Designation. A designated resource that has lost its significance through alteration or by an error in the original documentation used to designate the resource can be considered for removal from the local historic inventory provided that:

1. The alteration or misdocumentation was caused without intent or illegal action and is not feasible to reverse;
2. No foreseeable or reasonable treatment or research is available or likely to reconfirm the resource as significant;
3. In the case of a state or nationally designated resource, concurrence from the Oregon State Historic Preservation Office has been sought and any comments considered in the decision to remove the resource from the local inventory.

C. Guidelines. The following general guidelines are for the use of applicants, the Commission or Director to assist in the designation and inventory process.

1. Designated historic landmarks which are not already included in the Statewide Historic Inventory shall be documented using the state inventory format and forwarded to the State Historic Preservation Office.
2. Buildings designated for their architectural significance need not be in completely restored or finished condition at the time of application.
3. The Commission may advise the owner regarding pre-designation work to ensure consistency prior to designation; or
4. The Commission may designate a resource as historic with specific conditions to be met to ensure significance is achieved or enhanced.

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5. Unless a building's grounds or interior are specified as significant in the Commission's final Order, the designation shall only apply to the building's exterior features.
6. Associated resources, such as landscape, object, etc. must be listed on the

original application if contributing to the significance of a building being designated. If such resources are considered to be significant independent of the subject building, a separate review and determination is required.

Section 7. Criteria for Review of Proposed Alterations to Designated Historic Landmarks.

A. Review Criteria.

1. Exceptions. Minor alterations described in Section 5 above may be approved without findings pursuant to this section.
2. Findings required. A staff report is required to indicate whether a proposal is or is not in compliance with the provisions of this section.
3. Secretary's Standards. Commission decisions shall be based on the Secretary of the Interior's Guidelines for the Treatment of Historic Properties.
4. If the Commission finds that an application does not meet the approval criteria the permit shall be denied and no building permit shall be issued unless the decision is reversed on appeal.
5. Alterations
 - (a) Addition/removal. Applications may be approved conditioned upon certain treatments of the resource to ensure compatibility with the Secretary's Standards.
 - (b) New construction in historic districts. The new construction must not adversely affect the character of the subject building or district. Efforts shall be made to ensure that the new construction is compatible in scale, height, volume, spacing, setbacks, roof pitch, color, and other characteristics typical of the district.

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- (c) Relocations. Permits to relocate designated landmarks shall not be approved unless: the applicant shows that the landmark is in eminent danger and can not otherwise be protected; or the Commission has recommended the action in conjunction with denial of a demolition permit; or the landmark is being returned to its original location; or, in the case of a non-contributing resource within a district, the resource is not capable of achieving a future

contributing status through accepted treatment.

Section 8. For Permits to Demolish Designated Historic Landmarks.

A. Review Criteria. The Commission shall consider:

1. The state of repair of the landmark.
2. The reasonableness of the cost of renovation or repair.
3. The purpose of preserving such designated historical landmark.
4. The criteria used in the original designation of the landmark.
5. The applicable provisions of the City's Comprehensive Plan.
6. The character of the surrounding neighborhood.
7. Any other factor deemed appropriate by the Commission.

B. Rejection of Application; Suspension.

1. The Commission may suspend an application for a demolition permit if it determines the suspension is in the interest of preserving historical values.
2. In this case issuance of the permit shall be suspended for a period fixed by the Commission, but not exceeding 120 days from the original date of application; but
3. Within said suspension period, the Commission may request an extension of the suspension period by the City Council. If the City Council determines that there is a feasible "reuse" program or project under way which could result in public or private acquisition of the historical building or site the Council may extend the suspension period for an additional period not exceeding 180 days, for a total of not more than 300 days from the date of original application.

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4. No permit shall be issued for such demolition nor shall any person demolish the landmark unless the Commission or Council (on appeal) has granted approval, and the appropriate higher court appeal period has passed without appeal. If no further appeals are pending and/or the "reuse" program or project (#3 above) is not successful within the suspension time frame, the Director shall issue the demolition permit.

5. The Dalles Historical Landmarks Commission may identify specific non-contributing resources within a historic district which may be exempt from the provisions of this section governing review of a permit for demolition.

C. Interim Protection. This provision is intended to provide interim demolition protection measures for historic resources listed in the Oregon State Inventory of Historic Places that have not been designated as Historic Landmarks.

1. Resources in the Inventory are subject to the provisions of this section relating to the procedure for demolition and to Section 7.A.5.c. and Section 5 relating to the relocation process.
2. After a complete Local Inventory survey and a determination of significance resulting in landmark status or finding of non-significance by the Commission, the interim protection measures shall cease.
3. In no case shall the interim protection last beyond 120 days from the initial demolition application submittal date.

D. Conditions of Demolition Approval; Recordation.

1. When a designated landmark is approved for demolition, insofar as practicable and as funds are available, The Dalles Historic Landmarks Commission shall keep a pictorial and graphic history of the resource with such additional data as it may obtain.
2. To the extent funds are available, the Commission shall obtain artifacts from or of the landmark which are worthy of preservation, such as carvings, cast iron work, or other materials of artistic or historical importance.
3. In cases where a resource is experiencing “demolition by neglect” and no program or project can assist the preservation effort, the Commission should coordinate with the appropriate owners, agents, and government agencies to achieve property recordation.

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Section 9. Appeals, Enforcement, and Penalties.

A. Appeals. Any party of record may appeal a decision of the Historical Landmarks Commission to The Dalles City Council. Any appeal shall be made in writing and state the grounds for the appeal. Said appeal shall be submitted to the City Clerk within 10 days of the Commission’s final order. Upon receipt of a completed appeal with the appropriate fee, the City Clerk shall fix a date and time for the appeal hearing before the City Council within 45 days of the appeal filing.

The filing of a written appeal with the City Clerk shall stay any action related to the subject property until a decision of the City Council is made. The Clerk shall cause notice of the public hearing to be served in the same manner as the initial hearing notice was served. In addition, a notice of appeal shall be sent to the Commission. In making its decision, the Council shall rely on the criteria set forth for the original hearing. The Council may affirm, reverse or modify the initial decision of the Commission. The Council's decision shall be considered a land use decision.

- B. Enforcement and Penalties. Failure to comply with any provision of this chapter shall be considered an infraction and the violator shall be subject to a fine of not less than \$250 per violation. In addition, this chapter may be enforced by a suit in equity for a mandatory or prohibitory injunction. The prevailing party to any such civil enforcement action by the City of The Dalles shall be entitled to recover reasonable attorney's fees from the non-prevailing party at trial or upon appeal.

Section 10. Other Provisions.

- A. Design Guidelines. [text and graphics to be added by later amendment to this ordinance]
- B. Severability. Each sentence, paragraph and section of this ordinance shall be deemed severable. A declaration by a competent court that any provision of this ordinance is invalid shall have no effect upon the portions remaining.
- C. Repeal. General Ordinance No. 880- as amended, is hereby repealed.

Passed by the City Council and approved by the Mayor this 28th day of September, 1994.