

Historic Resources Code Project: Concept Development Period

# Letters from Organizations

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During the public comment period, staff received letters from 2 organizations:

- The Portland Coalition for Historic Resources
- Portland for Everyone

Both letters are reproduced verbatim on the pages that follow.

# **Implementing Oregon Land Use Goal 5 Rules for Historic Preservation in Portland**

## **A Position Paper by the Portland Coalition for Historic Resources**

March 11, 2017

The Portland Coalition for Historic Resources met February 23, 2017, and again on March 9, 2017, to review the required changes to Portland City Code to bring the City into compliance with the new Goal 5 Rules and to implement new requirements of the Rules (*A copy of the final Goal 5 Rules for Historic Resource Protection is attached as Appendix A of this document*). The City has issued some preliminary comments about their response to the new Rules, but PCHR believes that the City must take specific, concrete actions to achieve sustainable and practical protection of Portland's irreplaceable historic legacy, consistent with the new Rules. It is in this spirit that we present the following proposals for Goal 5 implementation in Portland.

### **Baseline Protection and Demolition Review**

Section 8a of the Rules requires a minimum protection for historic resources that are listed on the National Register of Historic Places after the effective date of the Rules. That protection must be a demolition review through a public hearing process, with specified criteria for evaluating the proposed demolition. This process must include the possibility of demolition denial. PCHR recommends:

1. The structure, process, and criteria for a Type IV Demolition Review of a protected historic resource as currently defined in City Code meet or exceed the Goal 5 Rule requirements and should NOT be changed except to clarify the definition and scope of demolition as addressed in points 2 and 3 below.
2. A Type IV Demolition Review should be triggered by either an application for a demolition permit under the current definition of demolition in the City Code OR by an application for a major alteration to the structure exclusive of alterations specifically exempted in current City Code such as siding repairs, re-roofing, general repairs, and maintenance. We expect that the Bureau of Development Services would undertake to define a policy for explicit criteria for alterations which trigger this type of review.
3. Demolition review, however defined, must apply to all contributing properties in newly designated Historic Districts unless applicable district guidelines specifically exempt accessory structures.

### **Application of "Additional Protections" as provided for in Rule 8b**

Section 8b allows jurisdictions to apply "additional protection measures", including a review of "major exterior alterations" as provided for under the definition of "protection" in the Rules. However, such protections may only be applied through a process that includes a "public hearing" during which a number of factors are considered. PCHR believes that detailed Historic

Resource Review (HRR) guidelines are essential for long-term protection of historic resources, but in the absence of such guidelines, an interim step must be taken to provide protections as soon as possible after historic designation. To implement this new requirement without inordinate delay in applying “additional protections”, PCHR recommends:

1. Within 90 days of the official designation of either an individually listed property or a Historic District, the Portland Historic Landmarks Commission shall convene a hearing to consider application of the Historic Resource Review language in current city code, 33.846.060G, to the newly designated resource as an immediately effective, *but interim*, HRR guideline. At the end of the hearing (or hearings), the PHLC should prepare a recommendation from among these choices for defining the *interim* guideline:
  - a. Accept 33.846.060G as written for the resource,
  - b. Accept 33.846.060G with wording changes customized to the resource
  - c. Propose new language to substitute for 33.846.060G which would accomplish the goals of “protection” as defined in the Goal 5 rules,
  - d. Accept 33.846.060G under a) through c) above as an interim
2. Upon completing its hearing, the PHLC would make a formal recommendation to City Council which would vote to accept the proposal or send it back to PHLC for additional review.
3. Within no more than 1 year of the official designation of a Historic District, the Bureau of Planning and Sustainability must propose to the PHLC a detailed draft of a Historic Resource Review Guideline (with inputs, as appropriate, from neighborhood stakeholders). The PHLC would then have 90 days in which to convene a hearing on the application of this HRR Guideline document to the Historic District, following the same process as described in #1 and #2 above for approval of the interim guidelines.
4. The Bureau of Planning and Sustainability and the Bureau of Development Services would provide sufficient additional staff resources to the PHLC to enable them to perform these responsibilities in an effective and timely manner.

### **Implementing new Historic Resource Review Guidelines**

To comply with the Comprehensive Plan for 2035 and the new Goal 5 Rules, it will be imperative that Portland have clearly articulated rules and policies for applying Historic Resource Review. While 33.856.060G provides a reasonable over-arching policy framework, it is inadequate for long term administration of HRR and insufficiently specific to provide meaningful guidance to property owners. Accordingly, PCHR recommends:

1. The City of Portland will draft a city-wide Historic Resource Review Base Guideline Framework document for residential properties built between 1880 and 1950, a Period of Significance which would embrace the overwhelming majority of contributing properties in existing and proposed Historic Districts. This document will include a framework for review of alterations to existing contributing and non-contributing properties as well as to the review of new infill construction.

2. Funding for this effort should be provided by allocating a portion of the \$70 million in unallocated funds in the BDS budget. Allocation of BDS funds in this situation is justified on the grounds that improved specificity and clarity of guidelines in preference to 33.846.060G will improve BDS processes for conducting HRR and save both time and staff resources accordingly.
3. The Bureau of Planning and Sustainability shall administer the drafting of this Base Guideline Framework document with inputs from affected historic neighborhood organizations, local preservation organizations, University of Oregon's Historic Preservation Program students, and other experts in the field as appropriate.
4. In the event of budget constraints limiting the scope or coverage of the guidelines effort, the City will match dollar for dollar contributions by 3<sup>rd</sup> parties, including neighborhood associations and historic preservation organizations, to allow fulfillment of the objectives as defined in #1 above.
5. The HRR Base Guideline Framework draft should be completed no later than the 2<sup>nd</sup> quarter of 2018, and be ready for adoption and review by City Council by 4<sup>th</sup> quarter, 2018.
6. Upon completion of the HRR Base Guideline Framework, the City will require the PHLC to conduct a hearing to consider adopting these Base Guidelines. Upon finalization of the Guidelines after PHLC review, the Base Guideline Framework would be approved by City Council.
7. Subsequent to the approval of the Base Guideline Framework, Historic Resource Review Guidelines as adopted for individual Historic Districts (including Historic Conservation Districts) would be the Base Guideline Framework plus a District-specific supplement addressing considerations unique to that District.

### **New Rules for Designation of Local Districts**

Section 1h(E) of the Rules define "Owner" for "resources with multiple owners", i.e. Historic Districts, as a simple majority of the individual owners. Thus new locally designated Historic Districts can come into existence with approval of 50% + 1 of the property owners. In other parts of the rule, "objection" by property owners is simply defined as entering a statement of objection on "the public record". Thus PCHR recommends:

1. Portland should amend its code for the designation and creation of a locally designated Historic Conservation District to provide for counting as statements of approval of the District any communication from an owner that meets the following requirements:
  - a. Is received by the City during the "approval period" as listed in public notices
  - b. Is received in any form acceptable for testimony and comment on the "public record" on actions by City Council, including email and U.S. Postal delivery of paper documents
  - c. Contains the full name of the party and the address of the property they own.
  - d. Makes a clear statement of approval or disapproval
  - e. Identifies the case or District upon which the owner is expressing approval or disapproval

2. Portland will create a new procedure for “self nomination” by a group of property owners, a neighborhood association or other organization to designate a Historic Conservation District, consistent with the criteria in Goal 5 Rules and City Code.

### **Expanded Protections for Locally Designated Historic Districts and Resources**

Section 7 requires local jurisdictions to adopt land use regulations to protect designated historic resources. Further, “protect” has been expanded in Goal 5 to include optional review of demolition with the prospect of potential denial of demolition (with the applicable definition of demolition as contained in the Goal 5 Rule). Accordingly PCHR recommends:

1. Portland should adopt an amendment to City Code to apply Type IV Demolition Review to all contributing properties in both current and proposed future Historic Conservation Districts, replacing the existing 120-day demolition delay provision.
2. **The triggers for Type IV Reviews of contributing properties in Historic Conservation Districts will be exactly the same as those for such review in National Register Historic Districts.**
3. **Similar rules for Type IV Reviews shall be applied to individually designated local “Landmarks” as currently defined in City Code.**

For questions or comments about this document, please contact the Portland Coalition for Historic Resources through the Bosco-Milligan Foundation, Inc. Advocacy Committee, at 503-231-7264 or [info@visitahc.org](mailto:info@visitahc.org).



February 17, 2018

Portland Bureau of Planning & Sustainability  
1900 SW 4th Ave. Suite 701  
Portland, OR 97204  
Attn: Historic Code Resources Project staff

Dear Portland city staff and decision-makers,

The organizations and individuals comprising Portland for Everyone are pleased to support the Historic Resources Code Project. Updating the city's Historic Resource Inventory and reviving Local Historic Districts and Local Conservation Districts will give Portland a set of tools better equipped to preserve historic resources in a nuanced, thoughtful, and effective way.

This wider range of historic preservation tools and strategies, with varied levels of protections and increased flexibility that reflects the unique characteristics of each distinct historic area or building, is long overdue. Portland (and Oregon) can better meet Goal 1 by also better meeting Goal 5. Strengthening transparent, local, public processes is a wonderful alternative to stringent protections that do not reflect local needs or conditions.

The staff should determine whether the City's historic preservation strategies will complement and support other critically important community goals, including climate change mitigation, access to transit, housing availability, affordability, equity, and desegregation.

- The criteria to establish a framework for updating the City's Historic Resources Inventory should take into account buildings and places of cultural significance to underrepresented peoples that have made Portland their home.
- Allow a less onerous but still transparent, public process for establishing small historic districts with a high number of contributing structures (Peacock Lane) as compared to large districts and/or districts with a lesser number of contributing structures.
- No net loss of capacity/ fair share contribution of new housing: To ensure every neighborhood contributes to the housing needs of all and complies with the Comprehensive Plan, if larger historic districts are established, mandate criteria to ensure the neighborhood still provides its fair share of housing, rather than continue economic exclusion of lower- and moderate-income residents. Require historic districts over a certain size to cumulatively contribute as much new housing as their Comp Plan designation plans for. This could be accomplished through: up-zoning non-contributing parcels within the district within ¼ mile of frequent transit, and within ½

mile of a LRT station, adding flexibility and capacity for adaptive reuse and internal conversion projects, eliminating any historic review design restrictions on adding ADUs, eliminating maximum densities, and/or other measures.

- Whenever possible, pursue flexibility in zoning and building code regulations that will make retrofitting and adaptive reuse of historic structures not only allowed, but also more feasible. These could include but are not limited to: eliminating parking minimums, eliminating minimum densities, expanded allowed uses, additional square footage, and flexibility for accessory structures on-site.
- Create clear and objective standards on the minimum requirements to initiate this historic district designation process, rather than relying on subjective interpretation (and often self-financing) of current (often wealthier) residents to determine the “unifying story” or “period of significance,” and justifying any given boundary.
- Prioritize historic preservation that will enhance the public realm: If preservation is coupled with public access and/or public use of these historic spaces, those uses should be prioritized over solely conserving private property.

Portland is in a declared housing crisis... but we did not get here overnight. Part of the solution is strengthening tenants rights, part of the solution is securing more funding for affordable housing, and part of the solution is allowing enough housing of many different kinds to be built in every neighborhood. We must not institute land use procedures that result in “death by a thousand paper cuts.” We must not continue to chronically under-build if we are serious about housing our full community.

The Portland for Everyone coalition will continue to support land use policy decisions that:

- Provide plenty of affordable and diverse housing options in all Portland neighborhoods
- Prioritize housing for historically and currently under-served populations
- Prioritize housing for humans over housing for cars
- Allow more people to live in areas with good access to transportation, parks, and services, and
- Create and maintain economically diverse neighborhoods.

We look forward to watching the project progress, and weighing in at each step of the process.

Thank you for your time, and for your work to house all Portland residents affordably,

Madeline Kovacs  
Portland for Everyone  
[www.portlandforeveryone.org](http://www.portlandforeveryone.org)

1000 Friends of Oregon  
133 SW 2nd Ave., Suite 201  
Portland, OR 97204