

Historic Preservation

This page provides a basic overview of historic preservation for local governments in Washington State, including relevant court decisions, examples of local ordinances, and related resources.

Overview

Local city and county heritage programs in Washington State, similar to other historic preservation programs across the country, emerged following the adoption of the [National Historic Preservation Act of 1966](#) (Public Law 89-665, 16 U.S.C. sec. 470 et seq.). This act is the key statute that defines present federal and state historic preservation programs. It established the [National Register of Historic Places](#) and authorized National Historic Landmark listings.

The [Washington State Department of Archaeology and Historic Preservation](#) (DAHP) in Olympia provides expertise, services, and training for the protection and preservation of Washington's historic places, including the efforts of local governments. This department also processes nominations to the National Register and provides technical assistance in implementing the [Special Valuation Program](#), a local option state property tax incentive program. To qualify for special valuation, rehabilitation must comply with the Secretary of the Interior's [Standards for Rehabilitation](#). DAHP administers the [Certified Local Government \(CLG\)](#) program, which recognizes and supports local historic preservation programs that meet federal and state standards.

Among its 13 goals, Washington's Growth Management Act (GMA) includes a goal to "Identify and encourage the preservation of lands, sites, and structures that have historical, cultural, and archaeological significance." [RCW 36.70A.020\(13\)](#) Although the GMA does not require an historic preservation or cultural resources element in a comprehensive plan, cities and counties planning under the GMA must consider and incorporate the historic preservation goal.

Legal References

Statutes and Administrative Regulations

- [Preservation Laws](#), Washington State Department of Archaeology and Historic Preservation - Includes federal and state historic preservation and archaeology laws and administrative regulations

Court Decisions

- [Conner v. City of Seattle](#), 153 Wn. App. 673 (2009), *review denied*, 168 Wn.2d 1040 (2010)
Conner sought to develop property that had previously been designated as a landmark. Conner argued that the landmark designation applied only to a house on the property and not to the surrounding grounds. The court disagreed; the designation included both the house and the grounds. Conner further contended that that the Landmarks Preservation Ordinance was unconstitutionally vague as applied and that the landmark restrictions on

the property constituted an unlawful tax, a regulatory taking, and deprived him of due process. The court concluded that the ordinance was not vague as each property was reviewed individually. There was no unlawful tax or a takings (the city need not prove a compelling interest).

- *City of Tacoma v. Zimmerman*, 119 Wn. App. 738 (2004)
The court upheld the validity of a Tacoma ordinance authorizing city acquisition of an historic structure through eminent domain. The owner was allowing the historic structure to deteriorate. Tacoma had a strong code provision in effect and had vigorously attempted to get the owners to maintain the structure, but without success. The court found that the city council did not abuse its discretion when it decided to exercise its eminent domain power under the Derelict Building Procedure of the Tacoma Municipal Code and preserve the Old Elks Temple, a pivotal structure in the Old City Hall Historic District of Tacoma.
- *Swinomish Indian Tribal Community v. Island County*, 87 Wn. App. 552, 942 P.2d 1034 (1997)
Counties are obligated under the Shoreline Management Act to establish procedures protecting buildings, sites, and areas having historic, cultural, educational, or scientific value. Island County violated the statute and its own Shoreline Management Master Plan by issuing sewer repair permits without adopting any procedures protecting known Indian archeological sites in the area. Implementing protective procedures is especially critical where, in an effort to keep the sites from being looted, only the County knows where the sites are located.
- *First United Methodist Church of Seattle v. Hearing Examiner for the Seattle Landmarks Preservation Board*, 129 Wn.2d 238, 916 P.2d 374 (1996)
Landmarks Preservation Ordinance, which prohibits United Methodist from making any alterations or significant changes to the church without City approval, burdens free exercise of religion because it forbids United Methodist to sell its property and use the proceeds to advance its religious mission. The ordinance is invalid as applied because the free exercise clause of the United States Constitution prevents government from engaging in landmark preservation when preservation has a coercive effect on religious practice.
- *Munns v. Martin*, 131 Wn.2d 192, 930 P.2d 318 (1996)
Demolition permit ordinance, which provides for a waiting period preceding issuance of a permit to demolish any structure over 50 years old or a "place of historic value," is an unconstitutional violation of the Catholic Bishop's right to demolish a school building that was once part of his religious ministry. Delaying demolition and development for long periods of time and compelling the Bishop to seek approval of his "religious mission" from secular authorities burdens the free exercise of religion.
- *First Covenant Church of Seattle v. City of Seattle*, 120 Wn.2d 203, 840 P.2d 174 (1992)
Seattle's Landmarks Preservation Ordinance, which requires First Covenant to get a certificate of approval before it makes certain alterations to the church's exterior, violates the church's right to free exercise of religion under the state and federal constitutions. The church building itself is an expression of religious belief and message. Therefore, the ordinances burden the church's free exercise administratively (by requiring the church to seek approval from secular authorities before altering the exterior of the building) and financially (by cutting in half the value of the church's property). The City's interest in preserving historic structures is not compelling enough to justify infringement on free exercise.
- *Buttnick v. City of Seattle*, 105 Wn.2d 857, 719 P.2d 93 (1986)
In commanding building owner to remove and replace a parapet/pediment, the Pioneer Square Historic Preservation Board did not work an unconstitutional taking of property. Local governments may enact land use restrictions or controls to enhance quality of life by preserving the character and desirable aesthetic features of a city. Furthermore, the estimated cost of replacing the parapet does not impose an unnecessary or undue hardship on the property owner, considering the building's high market value and income-producing potential.

General Historic Preservation Resources

The following provide useful guidance for preparing historic preservation plans and for developing and implementing local historic preservation ordinances.

Publications

The following guides provide general information on local historic preservation plans, programs, and procedures.

- [Historic Preservation: A Tool for Managing Growth](#) by Greg Griffith and updated by Diane Wiatr, Department of Archaeology and Historic Preservation, 06/2005 - Helpful guide to preparing the historic preservation element of a comprehensive plan
- [Illustrated Guidelines for Preserving Historic Buildings](#), The Secretary of the Interior's Standards for Rehabilitation, U.S. National Park Service - Standards for the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places, used by federal agencies and many local governments. Codified in 36 CFR 67 for use in the Federal Historic Preservation Tax Incentives program
- [A Citizen's Guide to Protecting Historic Places: Local Preservation Ordinances](#) Smart Growth Tools for Main Street, National Trust for Historic Preservation, 2002 - Useful general guide to developing local preservation ordinances
- [The Economic Benefits of Historic Preservation in Washington State: Summary Report](#) Prepared for: Washington Department of Archaeology and Historic Preservation by Matt Dadswell and William B. Beyers, 11/2006 - Documents the economic benefits of several types of historic preservation activities in Washington State and focuses on three key aspects of economic impacts: rehabilitation of historic buildings, heritage tourism, and the effects of historic designation on residential property values
- [A Guide to Smart Growth and Cultural Resource Planning](#), edited by Richard A. Bernstein, Wisconsin Historical Society - Addresses the integration of cultural resource preservation into the comprehensive planning process
- [Historic Preservation Planning for Local Communities](#), National Park Service, Historic Preservation Planning Program - General guidance on planning process and local plan examples

Organizations

The following are selected organizations and agencies that support historic preservation, including local programs.

- [National Trust for Historic Preservation](#) - National private nonprofit organization dedicated to historic preservation
- [National Main Street Center](#), National Trust for Historic Preservation - Nonprofit committed to advancing the preservation-based revitalization of commercial districts throughout the country
- [Preservation Green Lab](#), National Trust for Historic Preservation - Provides research that explores the value of older buildings and offers policy solutions that make it easier to reuse and green older and historic buildings; based in Seattle
- [Washington State Department of Archaeology and Historic Preservation](#) (DAHP) - Washington's department oversees and certifies local preservation programs
- [Find a Place](#), DAHP - Searchable database of National Register and Washington State Register properties
- [Washington Trust for Historic Preservation](#) - Statewide nonprofit organization dedicated to preserving historic places through advocacy, education, collaboration, and stewardship. Administers several programs for DAHP

- [4Culture Preservation Program](#) - Offers grants and technical assistance for historic preservation projects located within King County

Sample Ordinances

The following are selected ordinances from Washington jurisdictions that address landmark preservation, establish preservation commissions, and include zoning regulations for historic areas.

- Clark County Code [Sec. 40.250.030](#) - Historic Preservation
- Port Townsend Municipal Code [Ch. 17.30](#) - Historic Preservation Code
- Ritzville Municipal Code [Ch. 1.46](#) - Historic Preservation and [Ch. 11.70](#) - Historic Preservation Overlay Zone
- Seattle Municipal Code [Ch. 25.12](#) - Landmarks Preservation
- Spokane Municipal Code [Ch. 17D.040](#) - Historic Preservation
- Vancouver Municipal Code Ch. 17.39 - Historic Preservation in [Title 17](#)
- Washington State Department of Archaeology and Historic Preservation
 - [Model Ordinance](#) - Model historic preservation ordinance for local governments
 - [Sample Ordinances and Design Review](#) - Sample design review guidelines from Washington jurisdictions

Preservation Plans and Plan Elements

This section includes sample city and county preservation plans and preservation elements of comprehensive plans. Although the GMA does not require an historic preservation element in a comprehensive plan, quite a few jurisdictions have prepared a preservation element.

- Everett [Downtown Historic Preservation Plan](#) , 03/23/2011 - Strategic plan that identifies downtown historic properties and sites and proposes action items to help preserve, enhance, and market historic properties
- Hoquiam [Downtown Hoquiam Historic Preservation Plan](#), BOLA Architecture & Planning, 08/26/2010
- Olympia [Historic Preservation Assessment and Action Plan](#), 2005 - Very detailed local preservation plan
- Pasco [Historic Preservation Plan 2013](#)
- Redmond [Community Character/Historic Preservation Element](#), 2030 Comprehensive Plan, 2011
- Tacoma [Historic Preservation Plan](#) , 06/14/2011 - Element of comprehensive plan
- Washington State Department of Archaeology and Historic Preservation, [Preservation Planning](#) - State Historic Preservation Plan, guidelines, and related documents

Last Modified: October 17, 2016