

# ARCHAEOLOGY BULLETIN

RECOMMENDATIONS FROM THE OREGON STATE HISTORIC PRESERVATION OFFICE

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## ARCHAEOLOGICAL SITES ON PRIVATE LANDS

SEPT 2019

People have lived in Oregon for at least 16,000 years. Evidence of past human occupation exists, in part, within archaeological sites. Archaeological sites may consist of the remains of a 3,500 year-old village, trail ruts from the Oregon Trail or an early 1900s homestead. All archaeological sites contribute to the physical record of the history of Oregon from the earliest inhabitants to the recent past. The following information is for private landowners, to provide assistance with understanding state laws, what to do if you have an archaeological site on your property, your property rights, and how you can actively preserve and protect archaeological sites on your property.

### Definition:

In Oregon, an archaeological site is any location with physical remains of past human activity that is at least 75 years old. Physical remains may include artifacts, such as stone tools (arrowheads, pestles, mortars), chipped stone flakes from a tool stone such as obsidian, peeled trees, rock art, shell heaps or middens, wagon ruts, old cans, bottles, bricks, metal debris, domestic debris and foundations from historic buildings, or shipwrecks. The relationship or context of artifacts within an archaeological site can provide significant information on prehistoric or historic activities. The Oregon State Historic Preservation Office (Oregon SHPO) maintains a master record set of archaeological sites in Oregon.

**Laws:** Oregon laws protect significant archaeological sites on non-federal public (e.g., state, county, city) and private lands. An archaeological site is significant if it is eligible for the National Register of Historic Places. Archaeological sites are considered significant until they can be fully evaluated. Under state law, damage to archaeological sites is a Class B Misdemeanor. Disturbance of Native American human remains or associated funerary objects is a Class C Felony with penalties up to a \$10,000 fine. Oregon Revised Statutes and Administrative Rules that deal with archaeological sites include: ORS 97.740-760, ORS 192.345(11), ORS 358.905-961, ORS 390.235, and OAR 736-051-0000 to 0090.

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**Private Land Rights:** Archaeological sites on private land are owned by the landowner. However, only professional qualified archaeologists can collect or excavate a site on private lands with a state archaeological permit. In the event of an archaeological excavation the landowner has the right to retain the artifacts, or donate to a tribe or museum, except for Native American human remains, burials, associated funerary objects, sacred objects, and objects of cultural patrimony (ORS97.740). No one is allowed on private land without owner consent, regardless of the presence of an archaeological site. If an archaeological excavation is proposed on private property, landowners have the authority to request conditions or object to the permit before it is issued. The landowner is the steward. The state encourages landowners to avoid impacting archaeological sites by simply avoiding them. Some activities that may already be

occurring on your land (i.e. plowing, grazing) can continue. Unless the site contains human remains, burials, sacred objects, objects of cultural patrimony, and associated funerary objects.

### Project Planning:

Oregon SHPO recommends avoidance, if possible, for projects (e.g., construction [buildings, access routes, irrigation], dumping). If avoidance is not possible archaeological work will need to be undertaken by a professional archaeologist. This may include, pedestrian survey (walking the ground to look) or systematic excavation (digging to collect information about the site). If the site is found to be significant, further discussion with Oregon SHPO

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will need to be had to avoid, minimize, or mitigate effects to the site. Having an archaeological site will not stop projects, it just may take additional steps to comply with applicable archaeological statutes.

### Help identifying archaeological objects:

If you are not sure if something you have found is an archaeological object you can contact a professional archaeologist for assistance. They can be found at:

- Federal Agencies such as (Bureau of Land Management, Forest Service, Army Corps of Engineers, US Fish and Wildlife)
- State Agencies (SHPO, Oregon Parks and Recreation, Department of Transportation, Department of State Lands, Fish and Wildlife)
- Local Tribes
- Universities with Archaeology, Anthropology, or Classics departments
- U of O Museum of Natural and Cultural History
- Association of Oregon Archaeologists

### Learning if there are archaeological sites on your property:

Oregon state law protects the sharing of location information for archaeological sites (ORS 192.345[11]). However, a person cannot protect or manage a site on their property that they don't know is there. If a landowner wants to know if a site is known to exist on their property or if any archaeological work has been done before they can contact the Oregon SHPO and request the information. The landowner will need to provide:

1. Evidence of ownership of the property (a copy of the deed)
2. Property address (preferred) or legal description or taxlot
3. A map or aerial photo with the property outlined
4. Name and contact information

Send the information to one of the SHPO Archaeology staff, contact information below.

#### **SHPO Archaeology Staff**

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