

TO: Columbia River Gorge Commission

FROM: Staff, Columbia River Gorge Commission

DATE: March 8, 2022

RE: **Action Item***: Review Clark County NSA Ordinance for Consistency with the Revised Management Plan

Action Requested

Hold a public hearing on Clark County's revised National Scenic Area land use ordinance and vote to find the ordinance consistent with the general management area provisions of the Management Plan and tentatively find the ordinance consistent with the special management area provisions of the Management Plan.

If you do not believe the ordinance is consistent with the Management Plan, you must state the reasons for finding the ordinance inconsistent with the Management Plan and suggest modifications to the ordinance to make it consistent.

Background

On October 13, 2020, the Commission adopted revisions to the Management Plan for the Columbia River Gorge National Scenic Area, and on February 19, 2021, the U.S. Secretary of Agriculture concurred on the revisions. On March 16, 2021, staff transmitted the Management Plan to the six National Scenic Area counties so they could revise their existing National Scenic Area land use ordinances to be consistent with the revised Management Plan.

Clark County adopted its revised National Scenic Area land use ordinance on December 7, 2021, and on December 17, 2021, transmitted it to the Gorge Commission for review. The National Scenic Area Act requires the Gorge Commission act within 90 days after Clark County transmits the ordinance or the ordinance will be deemed consistent with the Management Plan. The 90th day is March 17, 2022.

This staff report summarizes Clark County's revision process and staff's review of Clark County's adopted revisions to their NSA ordinance.

Summary of Clark County's Process Revising its National Scenic Area Ordinance

Shortly after transmitting the revised Management Plan to the counties, Commission staff met with Clark County planning staff to discuss the updates to the Management Plan, answer questions, and provide feedback on specific language changes made to the County's ordinance.

Commission staff reviewed the first available draft of Clark County's revised NSA Ordinance in September 2021. Most sections of Clark County's ordinance matched language in the Management Plan or the Commission's draft land use ordinance (new Commission Rule 350-82) where Commission staff had clarified the Management Plan. For sections of Clark County's draft ordinance that staff believed were not consistent with the Management Plan, staff noted those differences in comments, and directed Clark County staff towards the appropriate language in the Management Plan.

Clark County also updated its ordinance language concerning appeals of decisions and enforcement within the National Scenic Area in Clark County. Previously, language in Clark County's ordinance stated that appeals of hearing examiner decisions would go to Clark County Superior Court, which, in the *Zimmerly* appeal, the Commission concluded was inaccurate for appeals relating to the implementation of the National Scenic Area Act.

Clark County planning staff hosted a public meeting on October 5, 2021, to address public questions about the ordinance update. Three Commission staff were present.

The Clark County Planning Commission had a work session on October 7, 2021. The Planning Commission asked questions regarding the distinction between the "no net loss of wetlands" goal and the new "no loss of wetlands" goal, the increase in the income test standard for agricultural dwellings, and on some of the updated scenic review standards.

The Clark County Planning Commission held a public hearing on the NSA ordinance and associated updates on October 21, 2021. County staff presented the general updates and the specific changes made since the October 7, 2021, work session. Planning Commissioners asked questions of county staff regarding potential takings claims arising from the new wetlands provisions, and regarding the increase in the income test standard for agricultural dwellings. The Planning Commission voted 6-1 to not recommend adoption of the revised NSA ordinance.

Subsequently, Gorge Commission staff had several meetings with Clark County staff to address the Planning Commission's concerns ahead of the Clark County Council's first work session. Gorge Commission staff sent a letter to the Clark County Council and Clark County staff outlining the process for revising the Management Plan, described the history of the income test for agricultural dwellings, and encouraged the Council to adopt the revisions to the county's NSA ordinance.

On November 17, 2021, the Clark County Council held a work session to discuss the revisions to the NSA Ordinance. Councilors expressed frustration that they felt they had no voice in the process of revising the Management Plan. On December 1, 2021, the County Council discussed the NSA Ordinance update as part of their 2022 work planning; it was not a focus topic of the meeting, but Councilors asked questions of County staff, largely following the same themes as the November 17 work session.

On December 7, 2021, the County Council held its public hearing to discuss and adopt the revisions to their NSA ordinance. After deliberation, the Council voted 5-0 to adopt the revisions.

Staff Review of Clark County's NSA Ordinance

Staff reviewed ordinance language to ensure that the applicability of the standards in the ordinance was consistent with the applicability of the guidelines in the Management Plan. Staff highlights the following items that significantly differ from the Management Plan.

Clark Co. Code 40.240.____	CC LUO Page	Mgmt Plan page	Discussion
.040 Definition of “Natural Resources”	41	473	<p>The definition of “Natural Resources” is different from the Management Plan definition.</p> <p>Management Plan definition: “Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.”</p> <p>Clark County’s definition: “Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.”</p> <p>Ideally, this definition would be the same as in the Management Plan. In the last plan review, the Oregon Supreme Court remanded to the Gorge Commission because the Management Plan had two definitions. The Commission revised the Plan at that time to have only the single definition.</p> <p>Clark County's definition is much broader than the Management Plan. The Clark County ordinance uses the term “natural resources” in reference as something to protect or to refers to the guidelines to protect, as in “scenic, cultural, recreation and natural resources”. The first use of the term could result in broader protection of resources based on the definition; the latter is just a cross reference to applicable guidelines. The different definition results in equal protection of the resources protected in the Management Plan, and perhaps protection of resources not protected as natural resources in the Management Plan. Use of the term “scenery” in the definition could create a question whether scenery is protected using the natural resources guidelines or the scenic resources guidelines.</p> <p>Staff recommends this provision is consistent with the Management Plan.</p>
.040 Definition of	44	478	The Clark County Code includes a definition of “Restoration.” There is no definition of “restoration” in the Management Plan.

			<p>The Management Plan contains a definition for “restoration (wetlands).” The CCC definition of “restoration” is broader than “restoration (wetlands) but expressly refers to the Management Plan definition as controlling when it comes to wetlands.</p> <p>The CCC defines “restoration to include all water resources, which reflects the Management Plan’s provisions for restoration in all water resources.</p> <p>Staff recommends the CCC definition is consistent with the Management Plan.</p>
.040 Definition of “Vested Right”	47	483	<p>The definition of “vested right” is “The right to develop or continue to develop a use, a development, or a structure under the regulations in force at the time of when a complete pre-application or application was filed, subject to the application being approved.”</p> <p>Clark County has not revised this definition in this ordinance.</p> <p>The Management Plan definition is “The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.” The Management Plan does not specify any requirements for “application vesting,” that is, the right to have a development application considered under rules in effect upon submitting an application.</p> <p>Clark County’s code allows application vesting at the time an applicant submits a preapplication. This is different from Oregon counties, in which vesting occurs at the time an application is submitted, provided it is complete within 180 days. Clark County vests applications at the earlier preapplication stage because it wants to promote applicants to commit to the details of their project as early as possible. A preapplication is valid for one year, during which time the applicant must submit an application.</p> <p>Staff recommends this definition is consistent with the Management Plan. The Management Plan does not specify application vesting; the counties may establish a reasonable standard for vesting applications.</p> <p>Staff recommends this provision is consistent with the Management Plan.</p>

.060.A.22 Expedited Development Review Process	61	332	<p>40.240.060.A.22 (the list of uses eligible for expedited review) contains a cross-reference to “Renewable Energy Production” (Part II, Chapter 7: General Policies and Guidelines), which is a reference to the Management Plan. This is a typo. This cross-reference should be to Clark County’s code 40.240.320.</p> <p>Staff recommends this typo does not affect consistency with the Management Plan.</p>
.070.B.2.c Emergency/Diaster Response Actions	66	339	<p>40.240.070.B.2.c (emergency/disaster response) refers to “Department of Washington Office of Archaeology and Historic Preservation.” This is a typo. The correct name is “Washington Department of Archaeology and Historic Preservation.”</p> <p>Staff recommends this typo does not affect consistency with the Management Plan.</p>
.110 Prohibited Land Uses and Activities	74	n/a	<p>40.240.110 lists three prohibited uses. The first two are from the National Scenic Area Act and mirror a similar “prohibited” uses provision in the Commission’s ordinance. The third is “Collective gardens as defined in Section 40.100.070.” The Management Plan does not include “collective gardens” and CCC 40.240.070 does not contain a definition.</p> <p>Staff recommends this difference does not affect consistency with the Management Plan.</p>
.170.D.1 Existing and Discontinued Uses This is an inconsistent provision	85–86	n/a	<p>40.240.170.D.1 states, “Expansion of Existing Commercial and Multifamily Residential Uses. In the special management area, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, pursuant to Sections 40.240.800 through 40.240.900 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited.”</p> <p>This provision was stricken from the Management Plan in 2008 in a federal court decision on the 2004 revised Management Plan. The Commission removed it from the Management Plan. This provision should have been removed from this ordinance at that time.</p> <p>Staff has spoken to U.S. Forest Service staff and the Secretary of Agriculture recommends that they would concur on this ordinance with the exception of this provision. That will make the provision inapplicable and Clark County can remove it at its next code update.</p>

.370.C Land Divisions	106	351	<p>40.240.370.C states, “Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines of this chapter.”</p> <p>The Gorge Commission removed the phrase, “Unless otherwise specified” in the 2020 Revised Management Plan because the Management Plan did not provide for any exceptions to review for a land division.</p> <p>Clark County has a land division ordinance in CCC 40.540, so the phrase “unless otherwise specified” could refer to that chapter.</p> <p>However, staff recommends the ordinance is still consistent with the Management Plan because CCC 40.240.010 states, “If conflicts occur between Chapter 40.240 and other Title 40 provisions, Chapter 40.240 shall prevail as to lands within the National Scenic Area, . . .” With this provision, only land divisions that are consistent with the Management Plan will be allowed.</p>
.470.A.3 Dimensional Standards	117	n/a	<p>40.240.470.A.3 contains an incomplete citation to 40.240.470.A.5. This is a typo.</p> <p>Staff recommends this typo does not affect consistency with the Management Plan.</p>
.510.A.26 Review Uses – Forest Land	120	236	<p>40.240.510.A.26.a, 26.b, and 26.c are misnumbered. They should be independent review uses, numbered A.27, A.28, and A.29. Staff also notes that 40.240.510.26.c references “Large Woodland” which is not present in Clark County.</p> <p>Staff recommends these typos do not affect consistency with the Management Plan.</p>
.540.A Approval Criteria for Fire Protection in Forest Designations	128	n/a	<p>In 40.240.540.A., Clark County changed the term “fuel break” to “defensible space.”</p> <p>The Commission made the same clarification in its ordinance. Staff recommends this change is consistent with the Management Plan.</p>
.610.E.2 Review Uses – Open Space	132	266	<p>40.240.610.E.2.e, is misnumbered. It should be E.3.</p> <p>Staff recommends this typo does not affect consistency with the Management Plan.</p>
.660 Review Uses with	134–35		<p>40.240.660 is the list of uses allowed with additional approval criteria. The Management Plan allows boarding of horses as a review use. The Clark County Code does not list boarding of horses, so it is not an allowed use.</p>

Additional Approval Criteria – Residential Land			Staff recommends this omission is consistent with the Management Plan.
.800.B.3 General Management Area Scenic Review Criteria	140	39–40	<p>40.240.800.B.3 states, “3. Determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments. A determination of the potential visual impact of a new development shall include written findings addressing the following factors</p> <ul style="list-style-type: none"> a. The amount of area of the building site exposed to key viewing areas; b. The degree of existing vegetation providing screening; c. The distance from the building site to the key viewing areas from which it is visible; d. The number of key viewing areas from which it is visible; and e. The linear distance along the key viewing areas from which the building site is visible (for 24 linear key viewing areas, such as roads).” <p>During Plan Review, the Gorge Commission removed “including but not limited to” at the end of the lead paragraph. The language was duplicative because in the Management Plan, there is a subsection F, which states “Other factors the reviewing agency determines relevant in consideration of the potential visual impact.” Here, Clark County’s prior code did not include the subsection F catch all language, relying instead on the “included but not limited to” language in the lead. Clark County removed the lead in language consistent with the revisions to the Management Plan, but that also removed the reference to other factors. Thus, Clark County’s code only specifies the five specific items in A-E.</p> <p>This appears to be a typo rather than an intentional change to this provision from the Management Plan. Staff recommends that this provision is generally consistent with the Management Plan, so long as Clark County implements this provision consistent with subsection F from the Management Plan until it fixes this provision in its ordinance.</p>
.820.A.4 General Management Area Cultural	156	86	40.240.820.A.4 states, “A.4 “The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant for resources of small-scale and large-scale uses.”

Resource Review Criteria			<p>In the Management Plan, this provision is limited to "resources discovered during construction. The resources will be protected the same whether the applicant or the Gorge Commission conducts and pays for the additional studies.</p> <p>Staff recommends this omission does not affect consistency with the Management Plan.</p>
.820.A.5	156-57	87	<p>40.240.820.A.5.a references "the following criteria" but does not include the criteria.</p> <p>This provision comes from a Management Plan policy. See Management Plan, Cultural Resources, GMA Policy 12.A (1) - (4). Staff recommends this omission is does not affect consistency because the policies are not mandatory to include in ordinances. For the next revision of the Management Plan, the Commission should consider whether this complete policy should be a guideline and thus in ordinances too.</p>
.840.H.2 General Management Area Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas) Review Criteria	172-73	N/A	<p>40.240.840.H.2 contains the same clarifications for measuring buffer zones that the Commission made in its own ordinance.</p> <p>Staff recommends this provision is consistent with the Management Plan.</p>
.880.B.1.f Special Management Areas Water Resources / Wildlife and Plants Review Criteria	189	148	<p>B.1.f (1), (2), and (3) are shown as subsections, but in the Management Plan they are separately numbered standards. They should be numbered B.1.g, B.1.h, and B.1.i. These standards don't work well as subsections because they refer to actions that are not dependent on (f). They are independent.</p> <p>This is a typo. Staff recommends this does not affect consistency with the Management Plan.</p>
40.510.020.H.3 Type II Process – Administrative Decisions	213	n/a	Clark County deleted a sentence specifying the manner of appealing a Type II hearings examiner decision. That silence may cause argument in the future, but is not inconsistent with the Management Plan or NSA Act.

40.510.030.D.6 Type III Process – Quasi-Judicial Decisions	219	n/a	Updated to correctly specify the manner of appealing NSA decisions.

Next Steps

If you find the ordinance consistent with the Management Plan (a final finding of consistency with the general management area provisions and a *tentative* finding of consistency with the special management area provisions), staff will prepare a final order for the Chair to sign. Following that, staff will transmit the final order, ordinance, and this staff report to the Secretary of Agriculture to make the final finding of consistency with the special management area provisions.

If you find that Clark County's ordinance is inconsistent with the Management Plan, staff will prepare a final order with your reasons for finding the ordinance inconsistent and recommendations to modify the ordinance. Commission staff will return the ordinance to Clark County. The County will then have 90 days to modify its ordinance and return it to the Commission for another review. If the County does not make the required changes, Commission staff would have to begin implementing your new land use ordinance (Commission Rule 350-082) in Clark County.

1 **ORDINANCE NO. 2021-12-02**

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3 An ordinance relating to land use, regulating the development of lands within the Columbia River Gorge
4 National Scenic Area (CRGNSA) portion of Clark County, and adopting amendments to the Clark County
5 Code to amend Section 32.08.050 Final Order, Section 40.100.070 Definitions, Chapter 40.240 Columbia
6 River Gorge National Scenic Area Districts General Management Area, Section 40.510.020 Type II
7 Procedures – Administrative Decisions, and Section 40.510.030 Type III Procedures – Quasi-Judicial
8 Decisions.

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10 WHEREAS, the CRGNSA was created in 1986 by the Columbia River Gorge National Scenic Area Act, 16
11 U.S.C. § 544, *et seq.* (Gorge Act); and

12 WHEREAS, approximately 7,700 acres within Clark County are located inside the boundaries of the
13 CRGNSA; and

14 WHEREAS, the CRGNSA Management Plan (Management Plan) ensures that land within the CRGNSA is
15 used consistently with the purposes and standards of the Gorge Act; and

16 WHEREAS, Clark County is subject to the interstate compact set forth in Chapter 43.97 RCW, which
17 incorporates the Gorge Act into Washington law and which established the Columbia River Gorge Commission (Gorge
18 Commission); and

19 WHEREAS, state and federal law require the Gorge Commission to review Clark County's land use ordinance
20 for the CRGNSA and determine whether the ordinance is consistent with the Management Plan, and authorize the Gorge
21 Commission to approve or disapprove the ordinance accordingly; and

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23 WHEREAS, on October 13, 2020 the Gorge Commission approved the updated and revised "Gorge 2020"
24 Management Plan for the CRGNSA; and

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26 WHEREAS, on February 19, 2021, the Secretary of Agriculture concurred that the Gorge 2020
27 Management Plan for the CRGNSA is consistent with the Gorge Act; and

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29 WHEREAS, on March 16, 2021, the Executive Director for the Gorge Commission transmitted the
30 revisions in the Management Plan to Clark County for adoption into the Clark County Code; and

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32 WHEREAS, on August 18, 2021, the Clark County Council (Council) directed staff to draft code
33 amendments to address changes made to the Management Plan; and

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35 WHEREAS, Clark County's required sixty day notification of intent to adopt this set of amendments was
36 received by the State Department of Commerce on October 1, 2021; and

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38 WHEREAS, Clark County published SEPA determinations of non-significance on October 1, 2021 and
39 November 10, 2021; and

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41 WHEREAS, the Clark County Planning Commission held a work session on October 7, 2021 to review the
42 staff recommendation on the proposed code amendments; and

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44 WHEREAS, the Planning Commission held a duly noticed public hearing on October 21, 2021, at which it
45 considered and deliberated on the staff proposal for these code amendments, and recommended that the Council deny the
46 proposed amendments; and

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48 WHEREAS, the Council held a duly noticed work session on November 17, 2021 to review the Planning
49 Commission recommendation on the proposed code amendments; and

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1 WHEREAS, the Council at its duly noticed public hearing on December 7, 2021, considered all written and
 2 virtual testimony and comments presented to the Council and the recommendations of the Planning Commission and
 3 staff; and

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 5 WHEREAS, the ordinance will take effect thirty (30) days after notification by the Gorge Commission and
 6 the Secretary of Agriculture of their findings that the ordinance is consistent with the Management Plan; and

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 8 WHEREAS, the Council finds that adoption of these code amendments will further the public health, safety
 9 and welfare; now, therefore,

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 11 BE IT HEREBY ORDERED, RESOLVED AND DECREED BY THE CLARK COUNTY COUNCIL,
 12 CLARK COUNTY, STATE OF WASHINGTON, as follows:

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 14 **Section 1. Findings.** The recitals above are incorporated into this ordinance as findings.

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 16 **Section 2. Amendatory.** Sec. 12 of Ord. 1977-12-51, codified as CCC 32.08.050, and most recently amended by
 17 Sec. 16. of Ord 2018-01-09, are each hereby amended as follows:

19 **32.08.050 Final order.**

20 (1) Any order duly issued by a director pursuant to the procedures contained in this title shall become final ten
 21 (10) days after service of the notice and order unless a written request for hearing is received by the hearing
 22 examiner within the ten (10) day period.

23 (2) Except as outlined in 32.08.050(3), aAn order which is subjected to the appeal procedure shall become final twenty-one (21) days after a mailing of the hearing examiner's decision unless within that time period an aggrieved person initiates review pursuant to RCW 36.70C.010 et seq. in Clark County superior court. (Sec. 12 of Ord. 1977-12-51; amended by Sec. 16 of Ord. 2018-01-09)

27 (3) Except as otherwise provided in Columbia River Gorge Commission Rule 350-60-240, examiner's decisions concerning implementation of Chapter 40.240 may be appealed by any person or entity who is adversely affected by the examiner's decision and who files a written appeal with the Columbia River Gorge Commission within thirty (30) calendar days after written notice of the examiner's decision is sent. An examiner's decision is a final decision by the county for appeals of decisions regarding proposed development of any lands within the Columbia River Gorge National Scenic Area.

34 **Section 3. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.100.070, and most recently
 35 amended by Sec. 8 of Ord. 2020-03-01 are each hereby amended as follows:

37 **40.100.070 Definitions**

38 Unless the context clearly requires otherwise, the definitions in this section shall apply to terms in this title. In
 39 addition to definitions provided below, there are chapter-specific or section-specific definitions in the following
 40 sections:

- 41 • Section 40.240.040, Columbia River Gorge National Scenic Area Districts;
- 42 • Section 40.250.010, Airport Environs Overlay Districts (AE-1, AE-2);
- 43 • Section 40.250.030, Historic Preservation;
- 44 • Section 40.260.050, Bed and Breakfast Establishments;
- 45 • Section 40.260.100, Home Businesses;

- 1 • Section 40.260.250, Wireless Communications Facilities;
 - 2 • Section 40.310.010, Sign Standards;
 - 3 • Section 40.386.010, Stormwater and Erosion Control;
 - 4 • Section 40.410.010, Critical Aquifer Recharge Areas (CARAs);
 - 5 • Section 40.420.010, Flood Hazard Areas;
 - 6 • Section 40.430.010, Geologic Hazard Areas;
 - 7 • Chapter 40.460, Shoreline Master Program;
 - 8 • Section 40.560.030, Amendments Docket;
 - 9 • Chapter 40.570, State Environmental Policy Act (SEPA); and
 - 10 • Section 40.610.020, Development Impact Fees.

(Amended: Ord. 2009-06-01; Ord. 2012-07-16; Ord. 2015-11-24; Ord. 2017-07-04; Ord. 2018-01-09; Ord. 2018-01-17; Ord. 2019-05-07; Ord. 2019-07-01)

Aboveground storage tanks	“Aboveground storage tank” means any one (1) or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which is ninety percent (90%) or more above the surface of the ground.
Abutting	“Abutting” means sharing a common boundary line; except that where two (2) or more lots share a common boundary line only at a corner or corners, they shall not be considered as abutting unless the common boundary line between the two (2) parcels measures not less than eight (8) feet in a single direction.
Access	“Access” means the place, means, or way by which pedestrians or vehicles shall have safe, adequate and usable ingress and egress to a property or use, as required by this title. Residential lots shall be provided a minimum of twenty (20) feet of access to a public or private street. Nonresidential uses shall be provided access according to Chapters 40.340 and 40.350. (Amended: Ord. 2018-01-09)
Accessway	“Accessway” means a public facility shared by pedestrians and bicyclists.
Access roads	“Access roads” means any of the urban or rural access roads as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate access roads from arterials, collectors, and commercial/industrial roads. (Amended: Ord. 2012-05-14)
Accessory use or structure	“Accessory use” or “accessory structure” means one which is subordinate to the principal use of a building on the lot serving a purpose customarily incidental to the use of the principal building.
Adjacent	“Adjacent” means near, close; for example, an industrial district across the street or highway from a commercial district shall be considered as “adjacent.”
Adjoining	“Adjoining” means sharing a common boundary line, including across a public or private right-of-way or easement from the property in question.
<u>Administrative decision</u>	<u>“Administrative decision” means a determination or predetermination made by the responsible official.</u>
Administrative manual	“Administrative manual,” when referring to transportation concurrency, means the written documentation adopted by the Public Works Director pursuant to Section 40.350.020.
ADT	“ADT” stands for average daily trips.
Adult family home*	“Adult family home” means a single-family dwelling or duplex licensed as such by the state of Washington, housing a maximum of six (6) adult residents where staff assumes the responsibility for the safety and well-being of the residents due to their age or condition. Care is provided by staff and may include provision of meals, laundry, and assistance with activities of daily living, and may include nursing care. Staff may or may not reside in the same dwelling.

	<p>(Amended: Ord. 2010-08-06; Ord. 2012-02-08)</p> <p>* Code reviser's note: Ordinance 2012-02-08, Section 7, states: "The definition of "Adult Family Home" in Section one of this Ordinance is intended to clarify the pre-existing code and shall be given retroactive effect to all pending applications and existing uses commenced after the above definitions were first adopted."</p>
Affected transportation corridor	"Affected transportation corridor" means any transportation corridor which is reasonably projected to be affected by the transportation related impacts of a proposed development.
Agricultural market	<p>"Agricultural market" means a permanent building or accessory structure used for the year-round sale of agricultural products grown on site or on other farms in the local agricultural area, and may include incidental retail sale of items or fee-based activities, both as accessory to the primary on-site products, to promote the sale of farm crops. An agricultural market is distinguished from a roadside farm stand by a larger scale of activity and a greater range of products offered. This definition does not include a winery.</p> <p>(Added: Ord. 2012-06-02)</p>
Agriculture, agriculture uses or agricultural activities	<p>"Agriculture," "agriculture uses" or "agricultural activities" means the use of the land for agricultural purposes, including, but not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses and structures; provided, however, that the construction and operation of any such accessory use or structure shall be incidental to that of normal agricultural activities; and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feeding of animals.</p> <p>Marijuana production and processing do not, for the purposes of this zoning title, meet the definition of agriculture, agricultural uses or agricultural activities, and may only occur in accordance with Chapter 314-55 WAC and Section 40.260.115.</p> <p>(Amended: Ord. 2006-07-09; Ord. 2006-08-03; Ord. 2014-05-07)</p>
Alley	"Alley" means a right-of-way not over thirty (30) feet wide which affords, generally, a secondary means of vehicular access to abutting lots, and is not intended for general use.
All-weather driving surface	"All-weather driving surface" means any road or driveway surface that when reasonably maintained will provide all-weather driving capabilities for fire and other emergency vehicle apparatus.
Alteration, structural	"Structural alteration" means any change or repair which would tend to prolong the life of the supporting members of a building or structure. Any change in the external dimensions of the building is a structural alteration.
Altered	"Altered," when referring to wetlands, means a wetland of which at least fifty percent (50%) has been graded, drained, devegetated, or replanted with non-wetland plants.
Ambulance dispatch facility	"Ambulance dispatch facility" means a public or private structure used to house a crew and ambulance to be dispatched from a central ambulance service facility located elsewhere. The structure is selected based on its location to serve a specific area of the county with a quick response time.
Ambulance service facility	"Ambulance service facility" means a public or private structure used to house ambulance service administrative personnel, equipment and supply storage, and repair and radio dispatch equipment. This facility may also include an ambulance dispatch facility.
Amusement center	"Amusement center" means a permanent development containing a single or multiple indoor or outdoor amusements such as batting cages, video arcades, go-cart tracks, bumper cars or amusement rides. Traveling carnivals and circuses shall not be considered amusement centers.
Anadromous	"Anadromous" means fish that migrate up rivers and streams from the ocean to breed in fresh water.
Animal boarding facility	<p>"Animal boarding facility" means any premises used to conduct a business that involves overnight boarding of domestic animals for any purpose, but not to include animal hospitals, veterinary clinics, or kennels.</p> <p>(Amended: Ord. 2011-03-09; Ord. 2012-02-03)</p>
Animal day use facility	<p>"Animal day use facility" means any premises used to conduct a daytime-only business with hours of operation from 6:00 a.m. to 10:00 p.m. that involves domestic animals as defined in Section 8.01.020, including but not limited to breeding, training, grooming, and day care.</p> <p>(Amended: Ord. 2010-12-12; Ord. 2011-03-09; Ord. 2012-02-03)</p>
Animal hospital or veterinary clinic	"Animal hospital" or "veterinary clinic" means a place where animals or pets are given medical or surgical treatment, and are cared for during the time of such treatment.

Animal husbandry	“Animal husbandry” means the care and raising of domesticated animals, such as cattle, horses, sheep, llamas, and poultry, but not including household pets, such as dogs and cats. (Amended: Ord. 2006-07-09; Ord. 2006-08-03)
Applicant	“Applicant” means the person, party, firm, corporation, legal entity, or agent thereof who submits an application for an activity regulated by this title.
Aquifer	“Aquifer” means a groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water to wells or springs (source: Chapter 173-100 WAC).
Archaeological site	“Archaeological site” means a site containing significant physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least one hundred (100) years old. Archaeological resources on these sites include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.
Area of special flood hazard, or flood hazard area	“Area of special flood hazard” or “flood hazard area” means the land in the floodplain subject to the base flood.
Arterial	“Arterial” means any urban parkway arterial, urban principal arterial, or urban minor arterial, as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate arterials from collectors, commercial/industrial, and access roads. (Amended: Ord. 2012-05-14)
Arterial Atlas	“Arterial Atlas” means the current Clark County Arterial Atlas as adopted by Council, or hereafter amended. (Amended: Ord. 2019-05-07)
Assisted living facility	“Assisted living facility” means a residential use, licensed by the state of Washington as a boarding home, where staff assumes responsibility for the safety and well-being of the adult residents. Housing, meals, laundry, supervision and varying levels of assistance with daily activities are provided by staff and may include nursing care. An assisted living facility contains seven (7) or more assisted living units. (Added: Ord. 2010-08-06)
Athletic, health and racket clubs	“Athletic, health and racket clubs” means a place of business where clients are charged to engage in physical activities including aerobics, racket sports, weightlifting, swimming, etc. (Amended: Ord. 2007-11-13)
Base zone	“Base zone” means the primary district applicable to a parcel of property irrespective of any overlay district.
Basin	“Basin” means a watershed.
Bed and breakfast establishment	“Bed and breakfast establishment” means a residence where an individual or family resides and rents up to six (6) bedrooms to guests and provides breakfast to those guests. (Added: Ord. 2010-08-06)
Best management practices (BMPs)	“Best management practices” or “BMPs” means those physical, structural and managerial practices, and prohibitions of practices, that, when used singly or in combination: <ul style="list-style-type: none">• Prevent or reduce erosion, or• Control stormwater runoff peak flow rates and volumes, and• Prevent or reduce pollution of surface water or groundwater.
Bike lane	“Bike lane” means the bicycle-only portion of a public street or road.
Binding site plan	“Binding site plan” means a site plan which provides an alternative means of dividing land for the sale or lease of commercially or industrially zoned property; and placement of manufactured homes or mobile homes on leased sites.

BioRetention facility	“BioRetention facilities” are shallow landscaped depressions, with a designed soil mix and plants adapted to the local climate and soil moisture conditions, that receive stormwater from a contributing area. (Per Department of Ecology 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (The 2014 SWMMWW).) (Added: Ord. 2015-11-24)
Block	“Block” means an area of land whose boundaries are defined by public or private streets, excluding alleys.
Block length	“Block length” means the distance between intersections with other public or private roads as measured along the nearside right-of-way line.
Block perimeter	“Block perimeter” means the perimeter of a block as measured along the nearside right-of-way lines of public streets or accessway easements but exclusive of driveways.
Boarding house	“Boarding house” means a building other than a hotel with furnished rooms with no cooking facilities, where, for compensation, meals or lodging and meals are provided for four (4) or more persons.
Branch bank	“Branch bank” means a service outlet providing primarily personal banking and related financial services to the general public.
Bridge	“Bridge” means a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and characterized by the following: <ul style="list-style-type: none">• A track or passageway for carrying traffic or other moving loads; and• An opening measured along the center of the roadway of:<ul style="list-style-type: none">◦ Single-span steel or concrete with spans of six (6) feet or greater;◦ Steel corrugated pipes with spans of eight (8) feet or greater;◦ Timber with spans of four (4) feet or greater;◦ Multiple pipes with spans of ten (10) feet or greater with multiple spans of eight (8) feet or greater between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; or◦ Multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening. <p>Bridges do not include structures with the depth of fill more than D/2, where D is the maximum span. (Added: Ord. 2012-05-30)</p>
Buffer	“Buffer,” when referring to wetlands, means an area that surrounds and protects a wetland from adverse impacts to the functions of a wetland.
Buffer	“Buffer,” when referring to geologic hazard areas, means an area surrounding a geologic hazard consisting of naturally occurring or reestablished vegetation and having a width adequate to protect the geologic hazard area.
Building	“Building” means a combination of materials to form a structure that is adapted to a permanent or continued occupancy. It is a structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel.
Building front	“Building front” means the street-facing elevation(s) of a building.
Building permit	“Building permit” means the permit issued by the county to an applicant for building a structure.
Building, main	“Main building” means a building within which is conducted the principal use permitted on the lot, as provided in the UDC.
Capacity	“Capacity,” when referring to vehicular traffic, means a measurement expressed as the maximum number of peak hour vehicle trips that an individual development may generate as defined in Section 40.350.020.
Carport	“Carport” means a roof projecting from one (1) side of a building designed to cover, but not enclose, automobile parking spaces.
Church	“Church” means a permanently located building primarily used for religious worship.

Circulation drive	“Circulation drive” means a place, means or way by which pedestrians and vehicles shall have safe, adequate and usable access to and throughout nonresidential development sites. Circulation drives may have the look, feel and function of a street and may also connect to either public or private streets.
Clark County Council	“Clark County Council” means “Clark County Council of Clark County, Washington,” “County Council,” “county council,” “Council,” or “council.” (Added: Ord. 2019-05-07)
Classes of forest practices	“Classes of forest practices” means the four (4) classifications of forest practice activities described in WAC 222-16-050. The class of forest practice is determined by considering several factors including but not limited to the type of activity proposed (e.g., harvesting, thinning), its scale, the affected environment, and future use of the site.
Clearing	“Clearing” means the act of removing or destroying trees, brush, groundcover or other vegetation, snags or downed logs, or talus features by manual, mechanical, chemical or any other means.
Clearing permit	“Clearing permit” means a permit required for nonexempt clearing of vegetation when no other land use permit specifically authorizes the proposed clearing activity.
Clinic, outpatient	“Clinic, outpatient” means a building or portion of a building containing offices for providing medical, dental, immediate care clinics or psychiatric services not involving overnight housing of patients.
Club	“Club” means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit. (Amended: Ord. 2019-07-01)
Collector	“Collector” means any urban or rural collector as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate collectors from arterials, commercial/industrial, and access roads. (Amended: Ord. 2012-05-14; Ord. 2019-07-01)
Commercial access	“Commercial access” means an on-site road providing access to properties zoned for business, commercial, manufacturing or industrial uses.
Commercial/industrial road	“Commercial/industrial road” as defined in Tables 40.350.030-2 and 40.350.030-3 means a road that serves to distribute traffic from arterials and provide direct access to abutting commercial or industrial properties. (Added: Ord. 2012-05-14)
Commercial off-street parking facilities	“Commercial off-street parking facilities” means a parking area for autos and light trucks not associated or dedicated to any specific use other than parking. Does not include long-term storage of vehicles.
Community Development Director	“Community Development Director” means the Director of the Clark County Community Development Department or the Director’s authorized designee. (Amended: Ord. 2006-05-01)
Comprehensive plan	“Comprehensive plan” means the current comprehensive plan for Clark County.
Congregate care facility	“Congregate care facility” means any home or private facility maintained and operated for the care, boarding, housing, and training of six (6) or more handicapped persons who require assistance in taking responsibility for themselves and guidance as necessary in activities of daily living, social and recreational activities and opportunities. A congregate care facility does not provide medical, nursing or social casework services.
Conservation covenant	“Conservation covenant” means a signed and recorded agreement between a property owner and Clark County running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the county.
Construction	“Construction” means any site-altering activity, including but not limited to grading, utility construction and building construction.
Contiguous lots	“Contiguous lots” means an area of land comprised of two (2) or more abutting lots or parcels.
Contributing drainage area	“Contributing drainage area” means the subject property together with the watershed contributing water runoff to the subject property.
Conversion option harvest plan (COHP)	“Conversion option harvest plan (COHP)” means a voluntary plan approved by Clark County indicating the limits of harvest areas, road locations, and open space.

	(Amended: Ord. 2012-02-03)
Cottage housing	“Cottage housing” means a grouping of small single-family detached dwellings clustered around a common area and developed with a coherent plan for the entire site. (Added: Ord. 2012-02-03)
Country inn of historical significance	“Country inn of historical significance” means a structure under ten thousand (10,000) square feet in size, located in a rural center or rural district with facilities for weddings, meetings, banquets, small conferences, educational seminars, retreats and other similar events, and where short-term lodging rooms are provided for compensation, and which is listed on the Clark County Heritage Register under Section 40.250.030(F). (Amended: Ord. 2003-12-15)
County	“County” means Clark County, Washington.
County Engineer	“County Engineer” means the person designated as the County Engineer as prescribed in Chapter 36.80 RCW.
County road	“County road” means a road opened to and maintained for public travel by Clark County.
Critical aquifer recharge areas (CARAs)	“Critical aquifer recharge areas” or “CARAs” means: Category I is the highest priority critical aquifer recharge area. Category I is the one (1) year time of travel for Group A water wells shown on the map adopted by reference. Category II is the primary critical aquifer recharge area. This area consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer. (Amended: Ord. 2007-11-13)
Critical areas	“Critical areas” means flood hazard areas, wetlands, habitat conservation areas, critical aquifer recharge areas, and geologic hazard areas as regulated under this title.
Crown cover	“Crown cover” means the area within the drip line or perimeter of the foliage of a tree.
Dangerous waste	“Dangerous waste” means solid waste designated in WAC 173-303-070 through 173-303-130 as dangerous or extremely hazardous waste. The words “dangerous waste” will refer to the full universe of wastes regulated by Chapter 173-303 WAC (including dangerous and extremely hazardous waste).
Day care center, commercial	“Commercial day care center” means a building and premises in and on which more than twelve (12) individuals are cared for during some portion of a twenty-four (24) hour period. In no case shall these individuals be housed in the building or on the premises.
Day care center, family	“Family day care center” means a dwelling and premises in and on which not more than twelve (12) individuals, not residing in the dwelling nor related to the care provider, are cared for during some portion of a twenty-four (24) hour period in the residence of the person or persons under whose direct care the individuals are placed.
Dedication	“Dedication” means the deliberate appropriation of land by the owner for any general and public uses, reserving to himself no other rights than such as one compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
Demolition waste	“Demolition waste” means largely inert waste, resulting from the demolition or razing of buildings, roads, and other manmade structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood, masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process, and asbestos wastes, are not considered to be demolition waste to this regulation (source: Chapter 173-304 WAC).
Density	“Density,” when referring to residential development, means a ratio comparing the number of dwelling units with land area, and is expressed as the number of residential dwelling units per acre of land in a residential development, including, but not limited to, one (1) house on one (1) lot.
Department	“Department” means any division, subdivision or organizational unit of the county established by ordinance, rule, or order. For the purposes of the UDC, department refers to the Clark County Community Development Department unless otherwise noted. (Amended: Ord. 2006-05-01)
Design storm	“Design storm” means the rainfall from a storm of twenty-four (24) hour duration. For example, two (2) year storm means the two (2) year, twenty-four (24) hour storm.

Developer	“Developer” means the person, party, firm, corporation, legal entity, or agent thereof who undertakes an activity regulated by this title.
Developer Covenants to Clark County	“Developer Covenants to Clark County” is a recorded legal document limiting or prohibiting certain uses of property. The Developer Covenants to Clark County may also impose affirmative obligation such as payment of a fee or be used to disseminate information to which the county deems is in the public interest. (Amended: Ord. 2005-04-12)
Development	“Development” means any manmade change to improved or unimproved real estate, including but not limited to: <ul style="list-style-type: none"> • Construction, reconstruction, installation or modification of a structure; • Site-altering activities including mining, dredging, filling, grading, construction of earthen berms, vegetative clearing, paving, excavation, or drilling operations and improvements for use such as parking; • Commencement of a new use, or the change in existing use of real estate or a structure thereon; or • Land divisions, subdivisions, short plats, site plans, conditional use permits, access to public roads, the establishment or termination of rights of access, and any related activities.
Development application	“Development application” means any application for approval of a development to which the provisions of this title apply.
Development site	“Development site” means the property or portion thereof on which a development activity or redevelopment is proposed.
Diseased tree	“Diseased tree” means a tree that in the opinion of the responsible official or an assigned expert approved by Clark County (such as, but not limited to, a professional forester or landscape architect), has a strong likelihood of infecting other trees or brush in the area or becoming a hazard as a result of the disease.
Distribution facilities	“Distribution facilities” means facilities where goods are warehoused, sorted and shipped to other locations.
Domestic animal	“Domestic animal” means any animal other than livestock that lives and breeds in a tame condition. This generally refers to dogs, cats and some birds. (Added: Ord. 2011-03-09)
Drive-in restaurant	“Drive-in restaurant” means a restaurant with facilities allowing take-out foods and beverages without leaving a vehicle. It generally also has the characteristics of a high turnover restaurant.
Driveway	“Driveway” means a privately maintained access to residential, commercial or industrial properties.
Dwelling	“Dwelling” means any building, or portion thereof, designed or used as the residence or sleeping place of one (1) or more persons. (Amended: Ord. 2018-01-17)
Dwelling, duplex	“Duplex dwelling” means a building, on a single lot, designed or used for residence purposes by not more than two (2) families, and containing two (2) dwelling units. (Amended: Ord. 2018-01-17)
Dwelling, multiple-family, or multifamily	“Multiple-family dwelling” means a building or portion thereof designed or used as a residence by three (3) or more families, and containing three (3) or more dwelling units. (Amended: Ord. 2018-01-17)
Dwelling, single-family	“Single-family dwelling” means a building designed or used for residence purposes by not more than one (1) family, and containing one (1) dwelling unit only, including modular and manufactured homes. <ul style="list-style-type: none"> • “Attached” means sharing a common wall or walls that separate interior occupant space or attached garage space on separate lots. At least fifty percent (50%) of the overall dimension of the attached side or end, as applicable, of each unit shall share a common wall. • “Detached” means physically separated.

	<ul style="list-style-type: none"> • “Tiny house” means a detached single-family dwelling unit of not less than one hundred fifty (150) square feet that is constructed or mounted on a foundation and is connected to utilities. A small dwelling unit built on a chassis is considered a recreational vehicle. <p>(Amended: Ord. 2009-07-01; Ord. 2018-01-17; Ord. 2018-10-02; Ord. 2019-05-07)</p>
Dwelling, townhouse	“Townhouse dwelling” means a form of attached single-family housing where two (2) or more dwelling units share one (1) or more common walls with other dwelling units, and with each dwelling occupying an individually owned parcel of land. (Amended: Ord. 2018-01-17)
Dwelling unit	“Dwelling unit” means one (1) room or a suite of two (2) or more rooms, designed for or used by one (1) family or housekeeping unit for living and sleeping purposes, and having only one (1) kitchen or kitchenette. (Amended: Ord. 2018-01-17)
Dwelling unit, accessory (ADU)	<p>“Accessory dwelling unit” (ADU) is an additional, smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. A house with an ADU is different from a duplex because the intensity of use is less due to the limitations of size, and it has the appearance of a single-family structure.</p> <ul style="list-style-type: none"> • “Urban ADU” means an attached or detached dwelling unit that provides for a greater range of housing types in single-family and multifamily residential districts while protecting the character of the residential neighborhood. • “Rural ADU” (RADU) means an attached dwelling unit that provides for a greater range of housing types in rural and resource lands while maintaining rural community character and ensuring the conservation, enhancement and protection of resource lands. <p>(Amended: Ord. 2010-08-06; Ord. 2018-01-17)</p>
Early notice	“Early notice,” when referring to SEPA, means the county’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (determination of nonsignificance (DNS) procedures).
Easement	“Easement” means an interest in land owned by another that entitles its holder to a specific limited use or enjoyment.
Electric vehicle infrastructure	“Electric vehicle infrastructure” or “EVI” means structures, machinery, and equipment necessary and integral to support an electric vehicle, including electric vehicle charging stations, rapid charging stations, and battery exchange stations. (Added: Ord. 2011-06-14)
Emergent wetland	“Emergent wetland” means a wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.
Employees	“Employees” means all persons, including proprietors, working on the premises during the largest shift at peak season.
Engineer	“Engineer” means an individual licensed by the state of Washington to practice professional engineering who has been retained by the county or others to design roadway, utility or similar improvements.
Enhancement	“Enhancement” means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.
Equestrian events center	“Equestrian events center” means an equestrian facility that is intended to host local, regional, and national equestrian events and that has public seating for at least one hundred (100) spectators. (Added: Ord. 2011-03-09)
Equestrian facility	“Equestrian facility” means a facility or facilities used by the general public, and for which a fee is charged, for the boarding, feeding, and/or pasturing of at least six (6) horses, including training arenas, corrals, and exercise tracks, and any activities associated with the use of such facilities. (Amended: Ord. 2009-10-04; Ord. 2011-03-09)
Erosion hazard area	“Erosion hazard area” means those areas where slopes are greater than fifteen percent (15%).

Event facilities	“Event facilities” means a use that provides facilities for rent for individual events such as weddings, meetings and other similar events.
<u>Examiner’s decision</u>	<u>“Examiner’s decision” means a determination made by the land use hearing examiner as outlined in Chapter 2.51.</u>
Exotic	“Exotic,” when referring to plants and animals, means any species of plants or animals that are not native to the watershed.
Extremely hazardous waste	“Extremely hazardous waste” means dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous.
Eyebrow	“Eyebrow,” when referring to streets and roads, means a partial bulb located adjacent to the serving road that provides access to parcels and can serve as a vehicle turnaround.
Facultative plants	“Facultative plants” means plants that are equally likely (thirty-four percent (34%) – sixty-six percent (66%) probability) to occur in wetlands or non-wetlands. Such groupings are more fully defined in the Wetlands Delineation Manual.
Facultative wet plants	“Facultative wet plants” means plants that usually (sixty-seven percent (67%) – ninety-nine percent (99%) probability) occur in wetlands. Such groupings are more fully defined in the Wetlands Delineation Manual.
Family	“Family” means individuals customarily living together as a single housekeeping unit and using common cooking facilities related by genetics, adoption, or marriage, or a group of not more than six (6) unrelated individuals.
Filling station	“Filling station” means a building or lot having pumps and storage tanks where fuel, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only.
Finished product retailer	“Finished product retailer” means a retail outlet primarily for the sale to the general public of products that involve limited fabrication or assembly on-site within an entirely enclosed building.
Floor area ratio	“Floor area ratio (FAR)” means the gross floor area of all buildings on a lot divided by the lot area. For example, a FAR of two to one (2:1) means two (2) square feet of floor area for every one (1) square foot of site area.
Floor area, gross	“Gross floor area” means the total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls and including halls, stairways, and elevator shafts at each floor level.
Forest land	“Forest land” as defined in the Washington State Forest Practice Act means all land which is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.
Forest practices	“Forest practices” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, as defined in Chapter 222-16 WAC.
Forest practices application or notification	“Forest practices application or notification” means the application or notification required to be submitted to the Washington Department of Natural Resources for the conduct of forest practices or to Clark County for forest conversions, generally, and, within urban growth areas, the harvesting of timber and road building.
Forested wetland	“Forested wetland” means a wetland with at least thirty percent (30%) of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than twenty (20) feet in height.
Frontage	“Frontage” means that portion of a parcel of property which abuts a dedicated public street or highway, or private road or driveway approved by the county. Frontage can include courtyards, plazas and other pedestrian areas which accommodate pedestrian activity and limit motorized vehicles.
Frontage road	“Frontage road” means a public or private road providing vehicular access to the boundary of a parcel of real property proposed for development.
Fully complete	“Fully complete” means that a development review application meets the submittal requirements of Subtitle 40.5 of the UDC.
Functional classification system	“Functional classification system” means the adopted hierarchy of roadway use as it relates to volume, speed, regional, area-wide and local characteristics.
Functions	“Functions,” when referring to wetlands, means the beneficial roles served by wetlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife.
Garage, detached	“Detached garage” means an accessory building intended and primarily used for the storage of motor vehicles, which is separate from and secondary to the main structure of the occupants.

Garage sale	“Garage sale” means a sale of used household or personal articles such as furniture, tools, or clothing, held on the seller’s own premises. This includes yard sales, estate sales, moving sales, and similar. (Added: Ord. 2020-03-01)
Garden shed	A “garden shed” is a structure no more than two hundred (200) square feet in floor area, designed to house garden tools or other horticultural products. A garden shed shall not be a place of human habitation, nor shall it be supplied with utilities such as plumbing or electrical service. (Amended: Ord. 2006-09-13)
General retailer	“General retailer” means a retail outlet selling a variety of merchandise, including durable, household, variety and perishable and nonperishable foodstuffs to the general public.
Geologic hazard areas	“Geologic hazard areas” means areas having steep slopes; potential, active or previous landslides; or extreme seismic hazard that are defined and regulated by this title.
Geologist	“Geologist” means a professional geologist licensed in the state of Washington under Chapter 18.22 RCW.
Geotechnical engineer	“Geotechnical engineer” means a professional engineer licensed in the state of Washington, experienced and knowledgeable in the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.
Grade	“Grade” means the finished ground level adjoining the building at all exterior walls. (Amended: Ord. 2007-06-05)
Grade plane	“Grade plane” means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building between the structure and a point six (6) feet from the building. (Amended: Ord. 2007-06-05)
Grading permit	“Grading permit” means the permit required under Chapter 14.07. (Amended: Ord. 2006-09-13; Ord. 2007-06-05)
Groundwater	“Groundwater” means water in a saturated zone or stratum beneath the surface of land or below a surface water body (WAC 173-200-020).
Guesthouse	“Guesthouse” means an accessory building designed, constructed and used for the purpose of providing temporary living accommodations for guests, or for members of the same family as that occupying the main structure, and containing no kitchen facilities.
Habitable floor	“Habitable floor” means any floor usable for living purposes including working, sleeping, eating, cooking or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a “habitable floor.”
Habitat areas	“Habitat areas” shall include the priority habitats and species (PHS) sites, and locally important habitat (LIH) sites as defined by the UDC.
Half road/partial road	“Half road” or “partial road” means any public or private road right-of-way or easement which is less than the full required width specified in this title, and which is established so as to permit additional right-of-way or easement to be provided at a later date to complete the full-width roadway.
Hard surface	“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof. (Added: Ord. 2015-11-24)
Hardscape	“Hardscape” means an approved, decorative hard or impervious surface, such as textured concrete, brick, or pavers for use by pedestrians, which may be used to widen sidewalks. Asphalt or plain finished concrete is not an approved hardscape finish.
Hazard tree	“Hazard tree” means any tree which, in the opinion of the responsible official, an expert approved by Clark County (such as, but not limited to, a professional forester or landscape architect), or a similar expert employed by another public agency or utility, has a strong likelihood of causing a hazard to life or property. (Amended: Ord. 2006-06-09)

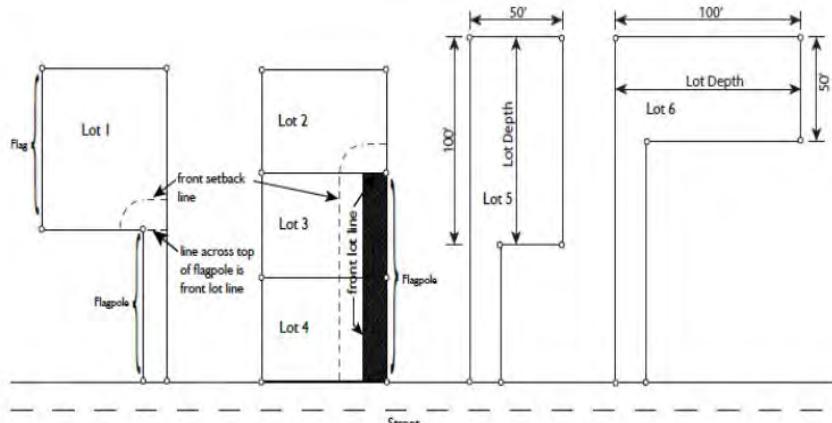
Hazardous substances	<p>“Hazardous materials” or “hazardous substances” means such material as flammable solids; corrosive liquids; radioactive material; oxidizing material; highly toxic material; poisonous gases; reactive material; unstable material; hyperbolic material; pyrophoric material as defined in Chapter 2 of the International Fire Code; and substances, or mixture of substances, that are an irritant or strong sensitizer or which generate pressure through exposure to heat, decomposition, or other means. Hazardous substances shall also mean hazardous waste as designated in Chapter 173-303 WAC as dangerous or extremely hazardous waste. “Hazardous substances” also means any dangerous waste or extremely hazardous waste as defined in RCW 70.105.010(5) and (6), or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under Chapter 70.105 RCW; and any substance that, on the effective date of the ordinance codified in this section, is a hazardous substance under Section 101(14) of the Federal Cleanup Law, 42 U.S.C., Section 9601(14); petroleum products; and any substance or category of substances including solid waste decomposition products, determined by the Washington Department of Ecology’s director to present a threat to human health or the environment if released into the environment. The term “hazardous substances” does not include any of the following when contained in an underground storage tank from which there is not a release of crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local laws.</p> <p>(Amended: Ord. 2006-09-13)</p>
Hazardous waste	“Hazardous waste” means all dangerous and extremely hazardous waste as defined in RCW 70.105.010.
Hazardous waste storage	“Hazardous waste storage” means the holding of dangerous waste for a temporary period as regulated by the State Dangerous Waste Regulations, Chapter 173-303 WAC.
Hazardous waste treatment	“Hazardous waste treatment” means the physical, chemical or biological processing of dangerous waste to make such wastes non-dangerous or less dangerous, safer for transport, amenable for energy or material recovery, amenable for storage, or reduced in volume.
Hazardous waste treatment and storage facility, off-site	“Hazardous waste treatment and storage facility, off-site” means facilities that treat and store waste from generators on properties other than those on which the off-site facilities are located.
Hazardous waste treatment and storage facility, on-site	“Hazardous waste treatment and storage facility, on-site” means facilities that treat and store waste generated on the same geographically contiguous or bordering property.
Headwaters	“Headwaters” means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.
Health officer	“Health officer” means the Clark County Health Department officer or the officer’s authorized designee.
Hearing examiner or examiner	“Hearing examiner” or “examiner” means the Clark County hearing examiner as established by Chapter 2.51.
Height, building	“Building height” means the vertical distance from grade plane to the average height of the highest roof surface, excluding overhanging eaves. (See also definition of “grade plane.”)

	<p>Figure 40.100.070-1 – Building height</p> <p>(Amended: Ord. 2007-06-05; Ord. 2007-11-13)</p>
High intensity land use	"High intensity land use," when referring to the regulation of wetlands, means the following uses of land: roadways, commercial, industrial, and multifamily exceeding four (4) units per parcel.
High-impact use	<p>"High-impact use," when referring to critical aquifer recharge areas, means a business establishment that is regulated due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses possess certain characteristics posing a substantial potential threat or risk to the quality of groundwater and surface waters within Category I CARAs. High-impact uses shall include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Landfills; • Class V injection wells; o Agricultural drainage wells, o Untreated sewage waste disposal wells, o Cesspools, o Industrial process water and disposal wells, and o Radioactive waste disposal; • Radioactive disposal sites; and • Activities in Section 40.410.020(C) that are not connected to public sewer.
Home business	<p>"Home business" means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property.</p> <p>(Amended: Ord. 2005-04-12)</p>
Home occupation	In the Columbia River Gorge National Scenic Area Districts only a "home occupation" shall mean the same as a "home business."
Homeowners association	<p>"Homeowners association" means a nonprofit organization operating under recorded land agreements through which the following take place:</p> <ul style="list-style-type: none"> • Each person owning or purchasing a lot in a planned unit or other described land area is automatically a member by such ownership or purchase.

	<ul style="list-style-type: none"> • Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property. • Construction and maintenance responsibilities for any undivided property are identified and assigned.
Hospital	“Hospital” means any institution, place, building or agency which maintains and operates organized facilities for twenty (20) or more persons for the diagnosis, care and treatment of human illness, including convalescence and also including care during and after pregnancy; or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period.
Hotel	“Hotel” means a place of lodging that provide sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops.
Hydric soil	“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Wetlands Delineation Manual.
Hydroperiod	“Hydroperiod” means a seasonal occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.
Hydrophytic vegetation	“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the Wetlands Delineation Manual.
Intermittent stream	“Intermittent stream” means surface streams with no measurable flow during thirty (30) consecutive days in a normal water year.
International Building Code	“International Building Code” means the published International Building Code as adopted by Clark County.
Intersection of regional significance	“Intersection of regional significance” means an intersection at which at least three (3) approaches have a comprehensive plan functional classification of collector or higher.
Isolated wetlands	“Isolated wetlands” means those wetlands which are outside of and not contiguous to any one hundred (100) year floodplain of a lake, river (other than the Columbia River), or stream, and are separated from other wetlands by a distance greater than the largest wetland buffers required under Section 40.450.030(E) for all adjacent wetlands. (Amended: Ord. 2006-05-27)
Kennel, commercial	“Kennel, commercial” means any of the following: <ul style="list-style-type: none"> • Any premises used to conduct a commercial business involving the buying, selling, breeding for sale, letting for hire, boarding or training of dogs; • Any premises at which ten (10) or more adult dogs are kept for any purpose, including animal shelters, but excluding animal hospitals or clinics where animals are kept only for treatment by licensed veterinarians; • Any premises where offspring puppies or adult dogs are sold to commercial outlets or are sold for research or experimental purposes; • Any premises where offspring from three (3) or more litters per twelve (12) month period are sold or traded, exchanged or bartered for a valuable consideration or joint ownership purpose; or • Any premises used as the location for the training of dogs for obedience, hunting, protection, etc. (if the address is different from the office address), or the premises are used as a combination office/training location, except if the training site is property belonging to a recognized school district, municipal body or not-for-profit organization. (Amended: Ord. 2010-12-12; Ord. 2011-03-09; Ord. 2012-02-03)
Kennel, private	“Kennel, private” means any premises where: <ul style="list-style-type: none"> • Between five (5) and nine (9) dogs over six (6) months of age are kept; and • Where boarding, training and shows are not allowed; and

	<ul style="list-style-type: none"> • There are two (2) or fewer litters in any twelve (12) month period. <p>(Amended: Ord. 2011-03-09; Ord. 2012-02-03)</p>
Land-disturbing activity	<p>“Land-disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction is also considered a land-disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land-disturbing activity if conducted according to established standards and procedures.</p> <p>(Amended: Ord. 2012-05-14; Ord. 2015-11-24)</p>
Landfill	<p>“Landfill” means a disposal facility or part of a facility at which solid and demolition waste is permanently placed in or on the land that is not land-spreading disposal facility (Chapter 173-304 WAC). In addition, “landfill” means all continuous land and structures and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.</p>
Landscaping	<p>“Landscaping” means not only trees, grass, bushes, shrubs, flowers and garden areas, but also the arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting, if those areas are permeable and allow stormwater infiltration in accordance with Section 40.386.010. Artificial plants, shrubs, bushes, flowers, and materials in movable containers are not considered landscaping.</p> <p>(Amended: Ord. 2015-11-24)</p>
Landslide	<p>“Landslide” means down-slope movement of a mass of soil, or rock, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, and earth flows.</p>
Landslide protection areas	<p>“Landslide protection areas” means those areas which are to be left permanently undisturbed in a substantially natural state and in which no clearing, grading, filling, building construction or placement or road construction of any kind is allowed except for activities exempted in Section 40.430.030(B).</p>
Large quantity generators	<p>“Large quantity generators,” when referring to critical aquifer recharge areas, means those businesses that generate more than two thousand two hundred (2,200) pounds of dangerous waste per month. They accumulate more than two thousand two hundred (2,200) pounds of dangerous waste at any time. They generate and accumulate more than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.</p>
Level of service (LOS) standard	<p>“Level of service standard” or “LOS standard,” when referring to transportation facilities, means a quantitative standard for the performance of a transportation corridor or intersection of regional significance.</p>
Local agricultural area	<p>“Local agricultural area” includes Washington and Oregon.</p> <p>(Added: Ord. 2012-06-02)</p>
Locally important habitat	<p>“Locally important habitat” means those areas so designated by Clark County by virtue of containing unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.</p>
Lot	<p>“Lot” means a designated parcel, tract or area of land established by short plat, subdivision, or as otherwise permitted by this title, to be separately owned, leased, used, developed, or built upon.</p>
Lot area, rural	<p>“Lot area, rural” means the computed area contained within the lot lines to include:</p> <ul style="list-style-type: none"> • Private driveway easements, • On-site road easements, • One-half (1/2) width or thirty (30) feet, whichever is less, of abutting public rights-of-way for perimeter streets, excluding limited access state or interstate highways. <p>For the purposes of this definition, “rural lot area” applies to urban reserve (UR-10 and UR-20) and rural (R-5, R-10 and R-20), agricultural (AG-20 and AG-WL) and forest resource (FR-40 and FR-80) districts.</p> <p>(Amended: Ord. 2007-06-05; Ord. 2009-07-01; Ord. 2016-06-12; Ord. 2017-07-04; Ord. 2018-01-09)</p>

Lot area, urban	<p>“Lot area, urban” means the computed area contained within the lot lines in urban districts, to include private driveway easements, and excluding street and alley rights-of-way, street easements, and street tracts.</p> <p>(Amended: Ord. 2007-06-05; Ord. 2009-07-01; Ord. 2016-06-12; Ord. 2018-01-09)</p>
Lot area, urban holding	<p>“Lot area, urban holding” means the computed area contained within the lot lines to include:</p> <ul style="list-style-type: none"> • Private driveway easements, • On-site road easements, • One-half (1/2) width or thirty (30) feet, whichever is less, of abutting public rights-of-way for perimeter streets, excluding limited access state or interstate highways. <p>(Added: Ord. 2018-01-09)</p>
Lot coverage	<p>“Lot coverage” means that percentage of the total lot area covered by structures, including all projections except eaves.</p>
Lot depth	<p>“Lot depth” means the horizontal distance between the midpoint of the front and opposite, usually the rear lot line. Average lot depth shall be the average of the side lot lines. In the case of a corner lot, the depth shall be the average length of the longer dimension of the lot. In the case of flag lots, lot depth shall be the average length of the longer dimension of the main body of the lot. See Figure 40.100.070-2.</p> <p>(Amended: Ord. 2007-06-05; Ord. 2018-01-09)</p>
Lot line	<p>“Lot line” means any line bounding a lot as herein defined. Lot lines for unusual lot configurations may be determined by the responsible official.</p>
Lot line, front	<p>“Front lot line” means that portion of the property line abutting a street right-of-way, street easement, street tract, or private driveway easement.</p> <ul style="list-style-type: none"> • For corner lots, the front lot line is that which provides vehicular access. In the case where vehicular access is provided on more than one (1) street, one (1) front lot line and one (1) street side lot line shall be designated. Within a street side setback, entrances to garages, carports, or similar vehicular shelters shall maintain a minimum eighteen (18) foot setback from the property line, street easement, street tract or inside edge of any pedestrian easement, when the street side setback for the applicable zoning district is less than eighteen (18) feet. If access is provided to a corner lot by an alley, the front lot line is that which is most opposite the alley. • For a flag lot, the front lot line is the juncture between the pole and the flag. (See Figure 40.100.070-2.) • For through lots, all lot lines abutting a street or approved private road or easement, except for alleys, shall be front lot lines unless vehicular access is prohibited, in which case they shall be considered rear lot lines. <p>(Amended: Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2008-06-02; Ord. 2016-09-04)</p>
Lot line, rear	<p>“Rear lot line” means a lot line not abutting a street which is opposite and most distant from the front lot line.</p>
Lot line, side	<p>“Side lot line” means any lot line which is not a front lot line or a rear lot line. In the case of flag lots, all lot lines other than the front lot line are considered side lot lines.</p> <p>(Amended: Ord. 2007-06-05)</p>
Lot line, street side	<p>“Street side lot line” means a side property line abutting a public right-of-way or private street easement or tract, exclusive of driveway easements.</p> <p>(Amended: Ord. 2007-06-05)</p>
Lot of record	<p>“Lot of record” means a parcel which was in compliance with both the platting, if applicable, and zoning laws in existence when the parcel was originally created or segregated, or which is otherwise determined to be consistent with the criteria of the UDC. Owners of such lots shall be eligible to apply for building permit or other county development review, pursuant to the county code.</p>

	Parcels segregated for tax purposes are not lots of record unless they comply with both platting and zoning laws in existence at the time that an application for segregation is received by the county assessor, or are otherwise determined to be consistent with the criteria of the UDC.
Lot width	“Lot width” means the horizontal distance measured at the building setback line between the two (2) opposite side lot lines. Average lot width shall be the average of the front and rear lot lines. For a corner lot, the lot width shall be the average distance of the narrower dimension of the lot. (Amended: Ord. 2007-06-05)
Lot, corner	“Lot, corner” means a lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street; such street or parts of the same street forming an interior angle of less than one hundred thirty (130) degrees within the lot lines. For the purposes of this definition, driveway easements or driveway tracts do not qualify as streets in urban areas. (Amended: Ord. 2007-06-05)
Lot, flag	“Flag lot” means a lot or parcel that has access to a road, street or easement, by means of a narrow strip of lot or easement. Figure 40.100.070-2 – Flag lots  <p>Flaglots Lot 1 is a flaglot whose flagpole is part of the lot. Lots 2, 3 and 4 are also flaglots because they obtain access via a narrow strip of easement that is part of Lots 3 and 4. The area within the driveway easement is included in the lot area calculations for Lots 3 and 4. Lots 5 and 6 illustrate that the flag can be parallel, or perpendicular, to the easement or flagpole. (Amended: Ord. 2007-06-05; Ord. 2018-01-09)</p>
Lot, interior	“Lot, interior” means a lot or parcel of land other than a corner lot.
Lot, through	“Through lot” means an interior lot having a frontage on two (2) streets and/or highways, excluding alleys. (Amended: Ord. 2007-06-05)
Low impact development	“Low impact development” means a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated into engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions. (Amended: Ord. 2006-06-09)
Maintain	“Maintain” means to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure; improve or condition an area to such an extent that it

	remains attractive, safe, presentable, and carries out the purpose for which it was installed, constructed or required.
Manufactured home	“Manufactured home” means a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes. The manufactured home must conform to federal Manufactured Home Construction and Safety Standards (HUD Code – Red Label) rather than to the Building Code (Gold Label) requirements. (Added: Ord. 2018-10-02)
Manufactured home park	“Manufactured home park” means an area designed, equipped, and maintained for the parking of two (2) or more manufactured homes being used as living quarters for humans. (Added: Ord. 2018-10-02)
Manufactured home space	“Manufactured home space” means an area of land for placement of a single manufactured home, and accessory structures, within a manufactured home park. (Added: Ord. 2018-10-02)
Market analysis	“Market analysis” means a study that assesses the commercial market conditions within a primary trade area as designated in the twenty (20) year plan designations and location criteria over a five (5) year horizon, and within the context of the twenty (20) year plan. The analysis shall contain location and income characteristics, and sales figures of competitive centers/areas in the trade area; space availability, absorption, and sales trends by category in trade area; review of vacant land; overall economic trends, employment trends, projections of economic activity, and growth patterns; population, household, and employment growth trends and projections for each trade area, as well as household characteristics such as household type (families, singles, etc.), age, including trends and projections. (Amended: Ord. 2007-09-13; Ord. 2008-12-15)
Master plan	“Master plan” means a comprehensive, long-range site and/or building plan for a development project. The project may be located on a single parcel or on abutting parcels which are owned by one (1) or more parties and may be implemented in phases. (Amended: Ord. 2006-04-18)
May	“May,” as used in the UDC, is permissive.
Median	“Median,” when referring to streets and roads, means that portion of a divided roadway separating the traveled way of traffic moving in opposing directions.
Medium quantity generators	“Medium quantity generators,” when referring to critical aquifer recharge areas, means those businesses that generate more than two hundred twenty (220) pounds, but less than two thousand two hundred (2,200) pounds of dangerous waste per month. They are limited to the accumulation of less than two thousand two hundred (2,200) pounds of dangerous waste at any time. They are limited to the generation of, and accumulation of, less than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.
Minimally necessary	“Minimally necessary” means the amount or extent needed to carry out a particular task, and no more.
Mini-storage warehouse	“Mini-storage warehouse,” “mini-storage” and “mini-warehouse” mean individual storage units located within a totally enclosed structure used for the storage of non-flammable or non-explosive materials.
Mitigation	“Mitigation,” when referring to transportation facilities, means the avoidance or minimization of a proposed development’s impact upon an affected transportation corridor or intersection of regional significance through such means as limiting or altering the proposed uses, intensities, or design of the development, or by compensating for the impact by replacing, enhancing, or providing transportation system improvements which provide additional capacity.
Mitigation	“Mitigation,” when referring to wetlands, means compensating for wetland impacts such that no overall net loss in wetland acreage and functions occurs.
Mobile home	“Mobile home” means a structure constructed before June 15, 1976, transportable in one (1) or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. A mobile home is not a recreational vehicle. (Amended: Ord. 2018-10-02)
Modeling	“Modeling,” when referring to transportation facilities, means a computerized projection of future traffic volumes and other traffic characteristics, based on land use designations.

Modular home	“Modular home” means any home built in modules at a factory. Modular homes must conform to all applicable state and local building codes. Modules are transported on truck beds, and then joined together at the site. They are inspected by local officials. (Regulated under the IBC standards – State Building Code.) (Added: Ord. 2018-10-02)
Motel	“Motel” means a place of lodging that provides sleeping accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space.
Motor vehicle dealer	“Motor vehicle dealer” means a retail outlet selling autos, trucks, boats, trailers, recreational vehicles and other equipment used for transportation, except motorcycles, to the general public.
MS4	“MS4” means municipal separated stormwater sewer system. (Added: Ord. 2015-11-24)
Native	“Native,” when referring to plants or plant communities, means those species or communities which are indigenous to the watershed, including extirpated species.
Natural location	“Natural location,” when referring to surface water, means the location and elevation of those channels, swales, and other non-manmade conveyance systems as defined by the first documented topographic contours existing for the development site, either from maps or photographs.
Neighborhood association	“Neighborhood association” means an organized group of citizens from a geographical area of the county forming an association recognized by the county as meeting the administrative guidelines established by Council. (Amended: Ord. 2019-05-07)
Nonconforming use	“Nonconforming use” means a use of land, building, or structure which use does not conform with the use regulations imposed by this title or such amendment thereto.
Non-conversion	“Non-conversion,” when referring to forest practices, means any Class II, Class III, or Class IV special forest practice as defined by WAC 222-16-050 where land is not being converted to a non-forestry use. Examples include but are not limited to the cutting and removal of trees and the replanting for commercial forest production.
Non-development clearing	“Non-development clearing” means, for the purposes of the habitat protection standards, proposed activities which do not require county land division, building, grading or other review but involve the clearing or alteration of vegetation within designated habitat areas.
Nonexempt tree or vegetation	“Nonexempt tree or vegetation” means vegetation that does not meet the definition of exempt tree or vegetation.
Non-forestry use	“Non-forestry use” means an active use of land which is incompatible with timber growing.
Normal water year	“Normal water year” means a twelve (12) month period (October 1st – September 30th) with average precipitation based upon data from the past fifty (50) years.
NPDES	“NPDES” means the National Pollutant Discharge Elimination System.
Nuisance	“Nuisance” shall include those definitions contained in Chapters 7.48 and 9.66 RCW. Any violation of this title shall constitute a nuisance, per se.
Nuisance vegetation	“Nuisance vegetation” means noxious weeds such as tansy ragwort, purple loosestrife, poison hemlock, Eurasian milfoil, non-native blackberries, or other plants listed as noxious by the county pursuant to Section 7.14.070 or any plant which when established is highly destructive, competitive or difficult to control by manual, mechanical or chemical practices. (Amended: Ord. 2006-05-01)
Nursing home or convalescent home	“Nursing home” or “convalescent home” means a facility licensed by the state of Washington providing twenty-four (24) hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board, and laundry for persons requiring regular medical attention by reason of chronic illness or infirmity, but excluding surgical or emergency medical services. This definition excludes hospitals and sanitariums. (Amended: Ord. 2010-08-06)
Obligate plants	“Obligate plants” mean plants that almost always (ninety-nine percent (99%) probability) occur in wetlands under natural conditions. Such groupings are more fully defined in the Wetlands Delineation Manual.

Official controls	“Official controls” means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of the county, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.
Open space/commons	“Open space/commons,” when referring to density transfer, means an area left open and undeveloped, for use by the public, but is not a formal park or recreation area managed or owned by the county. The land shall be identified as a separate tract and shall be managed and maintained in perpetuity for the intended use of the homeowners of the relevant development.
Open space, usable	“Usable open space” means an open area that is not covered in impervious surface and that exceeds four hundred (400) square feet with all dimensions a minimum of twenty (20) feet.
Open water	“Open water,” when referring to wetlands and when not specifically defined by the wetland rating criteria, means a proportion of open water to vegetative cover equal to twenty-five percent (25%) to seventy-five percent (75%) of the total wetland area during a majority of a normal water year.
Operating level	“Operating level,” when referring to transportation facilities, means the performance of a transportation corridor or intersection of regional significance, pursuant to Section 40.350.020(F).
Ordinance	“Ordinance” means the ordinance, resolution, or other procedure used by the county to adopt regulatory requirements.
Ordinary high water mark	“Ordinary high water mark” means the point on the sides of streams or lakes which is historically or normally at water’s edge, as identified by a visible change in vegetation and/or soil.
Owner	“Owner” means any person having property rights as a fee owner or contract purchaser, or one duly authorized by the power of attorney to represent the owner. For the purposes of this title, in terms of violations and binding agreements between the county and the owner, “owner” shall also mean a leaseholder, tenant, or person in possession or control of the premises or property at the time of agreement, violations of agreement, or the provisions of this title. For the purpose of processing an application for a land use approval or permit under this title, where such application or permit must be filed by an owner, the term “owner” also includes a governmental entity contemplating acquisition of a parcel for a use which would require such permit or approval. Where property is proposed to be developed pursuant to an easement right, “owner” means the person who is the holder of the easement.
Park, community	“Community park” means a public park that provides a focal point and gathering place for broad groups of users. Community parks are used by all segments of the population and generally serve residents from a one (1) to three (3) mile service area. Community parks often include recreation facilities for organized activities such as sports fields, skate parks, and play courts. (Added: Ord. 2016-06-12)
Park, neighborhood	“Neighborhood park” means a public park designed to provide nonorganized recreational opportunities for residents living within a one-half (1/2) mile radius, and are located such that they are within walking and bicycling distance of most users. These parks generally contain three (3) to five (5) acres but may vary in size depending upon unique site characteristics, opportunities and land availability. (Added: Ord. 2016-06-12)
Park, regional	“Regional park” means a public recreational area that serves residents throughout Clark County, as well as outside the county. Facilities may include sports fields, extensive trail systems, or large picnic areas. Because of their large size and broad service area, regional parks typically require more support facilities, such as parking and restrooms. These parks are designed to accommodate large numbers of people. (Added: Ord. 2016-06-12)
Parking area, public	“Public parking area” means an open area other than a street or other public way used for the parking of automobiles and available to the public whether for a fee, free of charge, or as an accommodation for clients or customers.
Parking space	“Parking space” shall be a permanently surfaced and marked area for the parking of a motor vehicle, excluding paved area necessary for access.
Party of record	“Party of record” means all persons, agencies or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or requested in writing to be a “party of record.” In the case of Type I decisions, the party of record shall include the applicant and any person who files a written request prior to the issuance of the decision. In the case of Type II decisions, the party of record shall include the applicant, and any person submitting to the responsible official written testimony, or a written request to be a “party of record,” that is specific to a particular application prior to the issuance of the decision. In the case of Type III decisions, the party of record shall include the applicant and persons submitting written

	testimony before, during, or prior to the close of a public hearing; providing oral testimony at a public hearing; signing the sign-in sheet noting the person's name, address and the subject matter in which they are interested; or by submitting a written request to the responsible official to be a "party of record" that is specific to a particular application prior to the close of the subject public hearing. Notwithstanding any of the foregoing, no person shall be a party of record who has not furnished an accurate post office mailing address.
Pavement or paved surface	"Pavement or paved surface" means an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as "Grasscrete") that is able to withstand vehicular traffic or other heavy impact uses. Paved areas include both permeable and impermeable hard surfaces. Graveled areas are not paved areas. (Added: Ord. 2015-11-24)
Peak hour	"Peak hour," when referring to transportation facilities, means the consecutive sixty (60) minute period during a twenty-four (24) hour period which experiences the highest sum of traffic volumes, as determined by the Public Works Director.
Pedestrian area	"Pedestrian area" means any sidewalk, walking trail, courtyard, plaza or other area intended primarily for use by pedestrians.
Pedestrian plaza	"Pedestrian plaza" means an area devoted solely to pedestrians that is a minimum of ten (10) feet in depth and width with a minimum size of six hundred fifty (650) square feet that is at least fifty percent (50%) paved with colored, textured concrete, brick pavers or other suitable surface and includes sitting areas and other pedestrian amenities.
Permeable pavement	"Permeable pavement" means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir. (Added: Ord. 2015-11-24)
Permittee	"Permittee" shall be the person who is proposing to use or who is using the land pursuant to any permit required herein.
Planning Commission	"Planning Commission" means the Planning Commission of Clark County, Washington.
Plans, construction or improvement	"Construction plans" or "improvement plans" means the technical drawings of the design and proposed construction of such items as streets, water and sewer systems, and drainage detention systems.
Plat	"Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys, or other divisions and dedications.
Plat, final	"Final plat" means the final drawing of the subdivision or short subdivision and dedication, prepared for filing for record with the County Auditor and containing all elements and requirements set forth in the UDC and in state law.
Plat, preliminary	"Preliminary plat" means a neat and approximate drawing of either a proposed subdivision or short subdivision showing the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision or short subdivision, and other elements of a plat, subdivision, short plat, or short subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.
Plat, short	"Short plat" means a division or redivision of land within an urban growth boundary into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. The maximum number of lots allowed under a short plat in the rural areas of the county is limited to four (4). (Amended: Ord. 2006-05-01; Ord. 2007-06-05)
Platting	"Platting" means the review process conducted by Clark County on applications for short plat or subdivision approval. All lots created through the platting process are lots of record as specified in this title.
Potential number of lots	"Potential number of lots," when referring to a transportation facility, means the maximum number of lots allowed by current or proposed zoning which may be served by a road or driveway or extension thereof.
Premises	"Premises" means a tract or parcel of land with or without habitable buildings.
Priority habitat and species (PHS)	"Priority habitat and species" (PHS) means the official definitions and all area classifications by that name used by the Washington Department of Fish and Wildlife (WDFW). Known local categories of priority habitat as defined by WDFW include riparian habitat, oak woodlands, old growth/mature forest, urban natural open space, talus rock, and caves.

Priority species sites	“Priority species sites” include all areas within one thousand (1,000) feet of state listed endangered, threatened, sensitive or candidate species.
Professional forester	“Professional forester” means a person with academic and field experience in forestry or urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters with a degree in forestry from a Society of American Foresters (SAF) accredited forestry school, member of the Washington Association of Consulting Foresters, or urban foresters with a degree in urban forestry.
Professional offices	“Professional offices” means businesses normally conducted in an office environment such as accounting, architecture, law, and other such uses with no retail sales to the public.
Project	“Project” means the proposed action of a permit application or an approval which requires a drainage review.
Public facilities	“Public facilities” means facilities which are owned, operated, and maintained by a public agency. This does not refer to the Public Facilities district, which has its own definitions per Section 40.230.090. (Amended: Ord. 2016-06-12)
Public road	“Public road” means a road maintained by Clark County, the Washington Department of Transportation, or other governmental jurisdiction.
Public sewer	“Public sewer” means extension of a public sewer system operated by a public entity or, where such extension is impractical, connection to an alternative public sewer system operated by the designated public sewer purveyor.
Public Works Director	“Public Works Director” means the Director of the Clark County Department of Public Works or the Director’s authorized designee.
Qualified groundwater professional	“Qualified groundwater professional” means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria: <ul style="list-style-type: none"> • Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and • Has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, profession certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater vulnerability.
Quick vehicle servicing	“Quick vehicle servicing” means a service outlet selling and installing minor motor vehicle requirements such as lube-oil-filter changes, tire changes, quick tune-ups and other services that require less than one (1) hour to complete, are generally performed with owner remaining in vehicle and involving no overnight storage of vehicles.
Reasonably funded	“Reasonably funded,” when referring to transportation facilities, means a mitigation measure or other transportation system improvement that is designated as reasonably funded in the most recently adopted version of the county’s transportation improvement program, or is designated by Council as being reasonably funded. (Amended: Ord. 2019-05-07)
Recreation space	“Recreation space” means an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreation space. Examples of usable recreation space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.
Recreational facilities	“Recreational facilities” means a facility that provides indoor and/or outdoor activities for physical, nonphysical, and/or cultural activities. Examples of recreational facilities include parks, trails, golf courses, camps, sport fields, public open space, gardens, and natural areas. (Added: Ord. 2019-02-04)
Recreational vehicle	“Recreational vehicle” means a vehicle that is: <ul style="list-style-type: none"> • Built on a single chassis; • Four hundred (400) square feet or less when measured at the largest horizontal projection; • Designed to be self-propelled or permanently towable by a light duty vehicle; and • Designed primarily not for use as a permanent dwelling but as temporary living quarter for recreation, camping, travel or seasonal use.

Recyclable materials facility	“Recyclable materials facility” means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building; but not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operative conditions, or salvaged materials incidental to manufacturing operations.
Recyclable materials facility – automotive	“Recyclable materials facility – automotive” means the dismantling or disassembling of motor vehicles or mobile homes, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. Three (3) or more dismantled, obsolete, or inoperable motor vehicles on one (1) lot shall constitute an automotive recyclable materials facility.
Registered soil scientist	“Registered soil scientist” means a professional soil scientist registered with the American Registry of Certified Professionals in Agronomy, Crops and Soils, experienced and knowledgeable in the practice of pedology related to soil survey, who is responsible for design and preparation of soils maps, related soil groups, and identifying soil factors for construction engineering.
Renewable energy resource	“Renewable energy resource” means: <ul style="list-style-type: none"> • Water; • Wind; • Solar energy; • Landfill gas; • Gas from sewage treatment facilities; • Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and • Biomass energy. <p>(Added: Ord. 2011-03-09)</p>
Reserved capacity	“Reserved capacity,” when referring to transportation facilities, means the capacity of a transportation corridor or intersection of regional significance used to accommodate approved but unbuilt developments.
Residential care facility	“Residential care facility” means an establishment operated with twenty-four (24) hour supervision for the purpose of serving eleven (11) or more persons of any age who, by reason of their circumstances or conditions, require care; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include assisted living facilities, prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement. “Care” is defined as room and board and the provision of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service. <p>(Amended: Ord. 2010-08-06)</p>
Residential care home	“Residential care home” means an establishment operated with twenty-four (24) hour supervision for the purpose of serving not more than ten (10) persons of any age who, by reason of their circumstances or conditions, require care while living as a single housekeeping unit in a dwelling unit; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement. This definition and corresponding requirements under county code shall not apply to adult family homes as defined in Chapter 70.128 RCW. <p>“Care” is defined as room and board and the provision of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service.</p> <p>(Amended: Ord. 2005-04-12)</p>
Responsible official	“Responsible official” means the employee of Clark County responsible for the implementation and enforcement of this title pursuant to Section 40.100.050.

Restoration	“Restoration,” when referring to habitat areas, means the activities undertaken to reestablish the natural structure or function of habitat area or portion thereof, such as replanting of adequate and appropriate vegetation, soil amendment, or reconstruction of stream banks.
Retirement community	“Retirement community” means independent living housing exclusively for adults (typically fifty-five (55) and over). A retirement community may take the form of a residential subdivision, cottage development, an apartment building or complex, a mobile home park, or a planned unit development. The retirement community is approved through the applicable process for whichever form it takes. (Added: Ord. 2010-08-06)
Review authority	“Review authority” means the County Engineer, the Public Works Director, the responsible official, the county’s Hearing Examiner, the Planning Commission, or Council, whoever is authorized to approve an application. (Amended: Ord. 2019-05-07)
Right-of-way	“Right-of-way” means a general term denoting public land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.
Riparian zone	“Riparian zone” means areas encompassing riparian priority habitat, a subset of priority habitat and as defined by the Washington Department of Fish and Wildlife (WDFW), extending outward from the ordinary high water mark of waters to the one hundred (100) year floodplain or the following distances if greater: Definitions of the Types S, F, Np and Ns waters are found in WAC 222-16-030 (Forest Practices Rules). Type S water, two hundred fifty (250) feet; Type F water, two hundred (200) feet; Type Np water, one hundred (100) feet; Type Ns water, seventy-five (75) feet. Not included are erosion gullies or rills, and irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans. (Amended: Ord. 2006-06-09)
Road maintenance	“Road maintenance” means repair and maintenance activities that are conducted on currently serviceable structures, facilities, and equipment; involve no expansion of or change in use of such structures, facilities and equipment beyond those that previously existed; and do not result in a significant negative habitat or wetlands impact. (Amended: Ord. 2005-04-15)
Road or street	“Road” or “street” means all roads, streets, highways, private street easements, private street tracts, and public rights-of-way used for or designed for vehicular access or use. (Amended: Ord. 2007-06-05)
Road, private	“Private road” means a road not maintained for public use by Clark County, the Washington Department of Transportation, or other governmental jurisdiction.
Road, rural	“Rural road” means a road located within the rural area of Clark County.
Road, urban	“Urban road” means a road located within an urban area of Clark County.
Roadside farm stand	“Roadside farm stand” means an accessory structure or area located within fifty (50) feet of a public right-of-way which is used to display and sell agricultural products, including value-added products, from the local agricultural area. (Added: Ord. 2012-06-02)
Roadway	“Roadway” means the improved portion of an easement or right-of-way, excluding curbs, sidewalks, ditches, multi-use pathways and walkways.
Rural or rural area	“Rural” or “rural area” means land not located within an urban area as designated in the Clark County comprehensive plan.
Rural center	“Rural center” means an area identified as such on the rural and natural resources lands map, as amended, such as Amboy, Brush Prairie, Chelatchie Prairie, Dollars Corner, Fargher Lake, Hockinson, and Meadow Glade.
School modular or portable	“School modular or portable” means a factory-built structure that is used for educational purposes or to support educational activities.

Scrub-shrub wetland	“Scrub-shrub wetland” means a wetland with at least thirty percent (30%) of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.
Segregation	“Segregation,” when referring to the division of land, means any division of land undertaken by the County Assessor for taxation purposes.
SEPA Rules	“SEPA Rules” means Chapter 197-11 WAC adopted by the Washington Department of Ecology.
Servants’ quarters	“Servants’ quarters” means a secondary dwelling or apartment without kitchen facilities designed for and used only by persons or the families of persons regularly employed on the property.
Setback	“Setback” means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest point of a foundation or supporting post or pillar of any applicable structure. (See Section 40.200.070 for exceptions to setback requirements.) (Amended: Ord. 2007-06-05)
Setback, front	“Front setback” means any required open space between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title. (See Figures 40.100.070-2 and 40.100.070-3.) (Amended: Ord. 2007-06-05)
Setback, rear	“Rear setback” means any required open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.
Setback, side	“Side setback” means any required open space extending from the front setback to the rear setback between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title. Figure 40.100.070-3 – Setbacks <p>The diagram illustrates two types of setbacks: a shared driveway easement and a street tract/right-of-way. It shows a vertical street line on the left. Above it, a 'Shared driveway easement' is shown as a shaded rectangular area with dashed lines indicating setbacks. Below it, a 'Street tract or r-o-w' is shown as a larger shaded area. Both areas have 'F' labels indicating foundations and 'S' labels indicating setbacks. To the right, a separate diagram shows a 'Flag lot' as a triangular plot of land with dashed lines for setbacks and a foundation 'F'.</p>
Shall	“Shall” is mandatory.
Shorelands	“Shorelands” means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; the full extent of floodplains; and all wetlands and river

	deltas associated with the streams and lakes and tidal waters that are subject to the provisions of the Shoreline Master Program; the same to be designated as to location by Ecology. (Amended: Ord. 2012-07-16)
Sidewalk	“Sidewalk” means a pedestrian-only facility within a public right-of-way, public easement containing a street or abutting a private road.
Sight-obscuring, fence or hedge	“Sight-obscuring, fence or hedge” means a fence or evergreen planting, or combination of fence and planting arranged in such a way as to obstruct vision.
Silviculture	“Silviculture” means the use of land for producing and caring for a forest, including the harvesting of timber.
Single purpose/specialty retailer	“Single purpose/specialty retailer” means a retail outlet selling a single category of goods, such as sporting, clothing, shoes, etc., to the general public.
Site	“Site” means that portion of property which is directly subject to development. For the purposes of determining public notice, site means the lot proposed for development and all contiguous lots that are owned by the same person, partnership, association or corporation as the lot, including lots that are in common ownership, but are separated by a public or private right-of-way or easement.
Site plan	“Site plan” means a plan prepared to scale, showing accurately and with complete dimensions, all proposed and existing buildings, landscaping, open space, structures and features on abutting properties, and parking proposed for a specific parcel of land.
Slope	“Slope” means an inclined ground surface, the inclination of which is expressed as a percent ratio of vertical distance to horizontal distance (v/h).
Snags	“Snags” means dead, dying or defective trees serving as an important structural element of wildlife habitat.
Solid waste	“Solid waste,” “waste materials,” or “wastes” means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials. See WAC 173-350-021 to determine if a material is solid waste. (Amended: Ord. 2020-03-01)
Special provisions	“Special provisions.” when referring to transportation facilities, means road construction requirements peculiar to a specific project and which are not otherwise thoroughly or satisfactorily detailed and set forth in the standard specifications. (Amended: Ord. 2012-02-08)
Staffed residential home	“Staffed residential home” means a residence licensed as such by the state of Washington providing twenty-four (24) hour care for six (6) or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence. (Added: Ord. 2012-02-08)
Standard Details Manual	“Standard Details Manual” or “Clark County Standard Details Manual” means the manual that provides standard details to be used in the design of all projects within Clark County. The manual contains Clark County’s transportation drawings of typical roadway sections for urban, industrial, and rural development, roadway landscape planting materials tables and planting details. The manual also includes typical engineering standard details for erosion control measures and storm drainage design. (Amended: Ord. 2012-02-08)
Standard plans	“Standard plans,” when referring to transportation facilities, means those typical sections and details adopted for road construction in Section 40.350.030(C)(3).
Standard specifications	“Standard specifications,” when referring to transportation facilities, means those specifications adopted for road construction in Section 40.350.030(C)(4).
Start of construction	“Start of construction” includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or

	other erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
State Environmental Policy Act (SEPA)	“SEPA” means the State Environmental Policy Act (Chapter 43.21C RCW), its implementing rules (Chapter 197-11 WAC), and Chapter 40.570 UDC.
State highway of regional significance	“State highway of regional significance” means a state of Washington owned and maintained roadway or intersection not designated by the state as a highway of statewide significance.
Stormwater facility	“Stormwater facility” means the natural or constructed components of a stormwater drainage system, designed and constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch-basins, oil/water separators, and biofiltration swales. (Amended: Ord. 2015-11-24)
Story	“Story,” when referring to structures, means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.
Stream or streams	“Stream” or “streams” means those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction. Those topographic features that resemble streams but have no defined channels (i.e., swales) shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development.
Stream bank stabilization	“Stream bank stabilization” means those approved bioengineered projects. The projects can include both passive and active types of methods for stabilizing the stream bank.
Street	See “Road or street.”
Street tree	“Street tree” shall be defined as a single-stem deciduous tree with a central leader that can be used as a landscape element for buffering/screening along front, side, and rear setbacks. Unique site features shall determine the most appropriate street tree to use. A street tree shall be broad branched and characteristically have lower branches that are able to be removed to meet clearance standards.
Structure	“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
Structure, principal	“Principal structure” means the main building on a lot to which all other buildings are accessory.
Structure, residential	“Residential structure” means a structure designed, built or inhabited under circumstances meeting the classification of Group R or similar residential occupancy under the International Building Code as adopted under Title 14.
Subdivision	“Subdivision” means the division or redivision of land within an urban growth boundary into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. In the rural area, five (5) or more lots define a subdivision. (Amended: Ord. 2007-06-05)
Subject property	“Subject property” means the entire lot or parcel, or contiguous combination thereof, on which a development activity is proposed.
Subregional facility	“Subregional facility,” when referring to stormwater, means a facility designed to treat and control stormwater runoff from more than one (1) development in a contributing drainage area of less than forty (40) acres.
Substantial completion	“Substantial completion,” when referring to transportation facilities, means that all public or private facilities are constructed, functional and operational, even though they may not be fully completed nor provisionally accepted, including sewer and water systems, storm drainage facilities and street improvements (including construction of the initial lift of asphalt or other approved surfacing), but not necessarily including sidewalks, or electrical, gas, telephone or cable services; and that the project is in full compliance with the erosion control ordinance.

Surface mining operations	“Surface mining operations” means mining of rock, stone, gravel, sand, earth and minerals.
Temporary worker	“Temporary worker” means a person intermittently employed in agriculture and not residing year round at the same site. (Added: Ord. 2011-12-09)
Traffic calming devices	“Traffic calming devices” means physical devices within the roadway designed to manage traffic speeds or which disperse traffic such as speed bumps/humps and traffic circles.
Traffic calming measures	“Traffic calming measures” means street design features intended to manage traffic speeds or which disperse traffic such as “T” intersection, street trees, curvilinear streets, or entry treatments.
Trail	“Trail” means any path, route, way, right-of-way, or corridor posted, signed, or designated as open for nonmotorized travel or passage by the general public. Five (5) trail types are identified in the Regional Trails and Bikeways System Plan (2006) and include regional, multiuse trails, local trails, rustic trails, semi-primitive trails, and bike lanes and pedestrian walkways. Trails are defined as recreational facilities. (Amended: Ord. 2016-06-12; Ord. 2019-02-04)
Transportation analysis	“Transportation analysis” means a study done by a licensed engineer that compares a build-out scenario under the existing and proposed designations analyzing trip generation, modal split and distribution for a current Comprehensive Planning twenty (20) year horizon. (Amended: Ord. 2007-09-13; Ord. 2019-05-07)
Transportation corridor	“Transportation corridor” or “corridor” means an identified system of road(s) and street(s), which are consistently utilized by vehicular traffic for travel along an identified circulation pattern.
Transportation impact study	“Transportation impact study” means a study done by a licensed engineer in accordance with Section 40.350.020.
Transportation improvement program	“Transportation improvement program” means the current six (6) year financing plan for roads adopted by the county pursuant to RCW 36.81.121, or similar plan adopted by the Washington Department of Transportation or cities for their highway and street facilities.
Transportation terminal	“Transportation terminal” means a facility for the transfer, pickup or discharge of people or goods without the long-term storage of such items.
Travel trailer	“Travel trailer” means any transportable trailer available for recreational use, forty (40) feet or less in length or eight (8) feet or less in width, built on a chassis and equipped with wheels.
Underground storage tank (UST)	“Underground storage tank” or “UST” means: <ul style="list-style-type: none">• An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW; or means any one (1) or combination of tanks (including underground pipes connected thereto) that are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. This term does not include any of the exempt UST systems specified in WAC 173-360-110(2), or any piping connected thereto.• Exemptions. The following UST systems, including any piping connected thereto, are exempt from the requirement of this chapter:<ul style="list-style-type: none">o Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;o Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;o Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;o Any UST system whose capacity is one hundred ten (110) gallons or less;o Any UST system that contains a de minimis concentration of regulated substances;o Any emergency spill or overflow containment UST system that is expeditiously emptied after use;o Farm or residential UST systems of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

	<ul style="list-style-type: none"> o UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of one thousand one hundred (1,100) gallons are subject to the release reporting requirements of WAC 173-360-372; o Septic tanks; o Any pipeline facility (including gathering lines) regulated under: <ul style="list-style-type: none"> • The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.), or • The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), or • Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in this definition; o Surface impoundments, pits, ponds, or lagoons; o Stormwater or wastewater collection systems; o Flow-through process tanks; o Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or o Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.
Urban or urban area	“Urban” or “urban area” means land located within an urban area or growth boundary as designated in the comprehensive plan.
Urban growth area (UGA)	“UGA” means an urban growth area designated in the comprehensive plan.
Use	“Use” means an activity or purpose for which land or premises, or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.
Use, conditional	“Conditional use” means a use specified by this title, which is permitted when authorized by the review authority and subject to certain conditions.
Use, permitted	“Permitted use” means a use allowed as a matter of right within certain land use districts; provided, that such use is in accordance with the requirements of the particular district and general conditions stated elsewhere in this title, and other applicable provisions of the county code.
Use, prohibited	“Prohibited use” means any use which is not specifically enumerated or interpreted as allowable in that zoning district or which is specifically listed as prohibited.
Utilities	“Utilities” means facilities operated by public or private entities to supply water, electricity, gas, sewer, transportation, or other similar services to the public. (Amended: Ord. 2006-06-09)
Utility substation facilities	“Utility substation facilities” means a subsidiary or branch facility utilizing aboveground structures which is necessary to provide or facilitate distribution, transmission or metering of water, gas, sewage, radio signals and/or electric energy. Such facilities have a local impact on surrounding properties and may consist of, but are not limited to, the following: <ul style="list-style-type: none"> • Water, gas and electrical distribution or metering sites; • Water or sewage pumping stations; • Water towers and reservoirs; • Public wells and any accessory treatment facilities; • Transmission towers and accessory equipment to provide radio and television service; and • Telephone switching facilities.
Vegetation	“Vegetation” means any and all plant life.

Vehicle repair	“Vehicle repair” means upholstering of; replacement of parts for; motor service; rebuilding or reconditioning of engines, motor vehicles, or trailers; and overall painting or paint shop.
Vehicle towing and storage services	“Vehicle towing and storage services” means a service outlet providing vehicle towing and/or storage.
Visual obstruction	“Visual obstruction” means any fence, hedge, tree, shrub, device, wall, or structure exceeding three and one-half (3 1/2) feet in height above the elevation of the top of the curb, as determined by the responsible official; and so located at a street or alley intersection as to dangerously limit the visibility of persons in motor vehicles on said streets or alleys. This does not include trees kept trimmed or branches to a minimum height of at least six (6) feet.
Walkway	“Walkway” means a facility dedicated to the county for pedestrian use to or through a parcel for the use of the general public which is not generally adjacent to the roadway.
Water-dependent	“Water-dependent” means a use or a portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.
Watershed	“Watershed” means an area draining to a single surface water system as shown on the Clark County wetland watershed map adopted hereby.
Wetland classes and subclasses	“Wetland classes and subclasses” means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin et al., 1978).
Wetlands	“Wetland” or “wetlands” means areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. (Amended: Ord. 2006-05-27)
Wetlands Delineation Manual	“Wetlands Delineation Manual” means the wetland delineation procedure described in WAC 173-22-035 (as amended). (Amended: Ord. 2006-05-27; Ord. 2011-01-01)
Wildland urban interface/intermix (WUI)	“Wildland urban interface/intermix (WUI)” means those geographic areas of the county shown as “wildland urban interface/intermix” areas on a map adopted by Section 15.13.030 and as hereafter amended.
Window	“Window,” when referring to utility installation, means a rectangular opening cut in the pavement to allow potholing.
Winery	“Winery” means a licensed facility designed for the crushing, fermentation, and/or barrel aging of wine, and which may include barrel rooms, bottling rooms, tank rooms, laboratories, case goods storage, and offices. In rural zoning and urban holding districts a winery may include a tasting room and/or events. “Licensed” for the purposes of this title means a facility that has met the requirements of RCW 66.24.170 and 27 CFR Chapter 1, Subchapter A, Part 1. (Amended: Ord. 2010-10-02; Ord. 2011-08-08; Ord. 2013-08-11)
Wireless communications facility	“Wireless communications facility” means any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals for the provision of wireless communications as defined in Section 40.260.250.
Zone, zone district or zoning district	“Zone,” “zone district” or “zoning district” means a section or sections of Clark County within which the standards governing the use of land, buildings, and premises are uniform, as provided in this title.

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(Amended: Ord. 2009-01-01; Ord. 2012-07-15; Ord. 2019-05-07; Ord. 2019-07-01)

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4 **Section 4. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.010, and most recently
5 amended by Sec. 1 (Exh. A of Ord. 2006-08-21 are each hereby amended as follows:
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1 **40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS**

2 **ARTICLE I. ADMINISTRATION**

3 **40.240.010 Purpose and Authority**

4 The purpose of these regulations is to protect and provide for the enhancement of the scenic, cultural, recreational,
5 and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River
6 Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and
7 natural resources of the Gorge. These regulations are intended to be consistent with and implement the Management
8 Plan for the Columbia River Gorge National Scenic Area (CRGSNA) adopted and amended by the Columbia River
9 Gorge Commission. These regulations shall only apply to lands within the Clark County area within the National
10 Scenic Area. If the provisions of this chapter differ from state law then the provisions of this chapter shall prevail. If
11 conflicts occur between Chapter 40.240 and other Title 40 provisions, Chapter 40.240 shall prevail as to lands
12 within the National Scenic Area, except when conflicts arise between buffer and/or riparian zone width requirements
13 in Chapter 40.240 and Chapters 40.440 and 40.450, the broadest buffer and/or riparian zone width shall be required.
14 The provisions of Chapter 40.240 shall provide the minimum protection of natural resources. Additional
15 requirements providing greater levels of natural resources protection, pursuant to provisions of Chapters 40.440 and
16 40.450, shall be imposed.

17 A. Area Affected.

18 1. Chapter 40.240 shall:

19 a. Apply to all lands in Clark County, Washington within the Columbia River Gorge National Scenic
20 Area as designated by the Columbia River Gorge National Scenic Area Act as may be amended;

21 b. Apply to all unincorporated lands within the National Scenic Area; and

22 c. Be applied by Clark County to the National Scenic Area within incorporated lands where authorized
23 by state or federal law. Administration and enforcement of these incorporated areas may be subject to
24 interlocal agreement between Clark County and the city of Washougal.

25 2. Those portions of Chapter 40.240 and any amendments thereto pertaining to the General Management
26 Area (GMA) become effective once the Columbia River Gorge Commission finds it consistent with the
27 Management Plan for the CRGNSA. Those portions of Chapter 40.240 and any amendments thereto pertaining
28 to the Special Management Area (SMA) become effective when the Secretary of Agriculture concurs on the
29 ordinances adopted by Clark County.

30 B. Review and Approval Required.

31 No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or
32 enlarged, including those proposed by state or federal agencies, in the Clark County portion of the Columbia River
33 Gorge National Scenic Area except for the uses listed in this chapter, when considered under the applicable
34 procedural and substantive guidelines of this chapter.

35 C. Uniform Application of Management Plan.

36 1. The Management Plan shall be applied consistent with and in the spirit of the National Scenic Area Act.

37 2. The Gorge Commission, Forest Service, and counties should strive to apply Management Plan provisions
38 uniformly throughout the National Scenic Area, except when a county has adopted a more restrictive provision.

39 3. In applying provisions of the Management Plan, the Gorge Commission and Forest Service may consider,
40 but shall not be constrained by, county interpretations, state interpretation and application of state law and
41 administrative regulations, or judicial decisions that do not directly involve the Management Plan.

42 4. In reviewing and revising the Management Plan in 2020, the Gorge Commission and Forest Service used
43 Webster's Third New International Dictionary, unabridged (2002) for undefined terms. When interpreting

1 the Management Plan and land use ordinances implementing the Management Plan, the Gorge Commission
 2 will use Webster's Third New International Dictionary, unabridged (2002) for undefined terms. For terms
 3 that do not appear in this dictionary, the Gorge Commission will first consider the online (free) version of
 4 Merriam-Webster unabridged (currently at https://unabridged.merriam-webster.com/). For terms that do not
 5 appear in the online (free) version, the Gorge Commission will consider other available dictionaries.

6 (Amended: Ord. 2006-05-04; Ord. 2006-08-21)

8 **Section 5. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.030, and most recently
 9 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

11 **40.240.030 Amendments to This Section**

12 Clark County may initiate and complete changes to this chapter or associated map designations as follows, to be
 13 reviewed under procedures specified under Chapter 40.500:

- 14 A. Scrivener errors, spelling and numbering corrections may be undertaken administratively by county staff.
- 15 B. Minor textual alterations may be undertaken by Clark County through a Type IV legislative action under
 16 Section 40.510.040 upon a finding that such changes are consistent with the CRGNSA General Management Plan.
 17 Such alterations shall require subsequent approval by the Columbia River Gorge Commission, and the U.S.
 18 Secretary of Agriculture for alterations in the SMA, before taking effect.
- 19 C. Minor and major textual and map alterations may be undertaken by Clark County through a Type IV
 20 legislative action under Section 40.510.040 in response to changes in the CRGNSA General Management Plan
 21 and/or other actions by the Columbia River Gorge Commission authorizing such alterations.
- 22 D. Individuals seeking major textual and map changes requiring a change to the General Management Plan are
 23 encouraged to contact the Columbia River Gorge Commission to complete such changes before seeking
 24 corresponding changes within this chapter. Any changes to the zoning maps designations shall require
 25 corresponding changes to the Comprehensive Plan map, and shall be considered major changes.

26 (Amended: Ord. 2006-05-04)

27 **Section 6. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.040, and most recently
 28 amended by Sec. 2 of Ord. 2018-03-04 are each hereby amended as follows:

31 **40.240.040 Definitions**

32 As used in this chapter, unless otherwise noted, the following words and their derivations shall have the following
 33 meanings. The definitions do not apply to areas of Clark County outside of the Columbia River Gorge National
 34 Scenic Area.

Accepted agricultural practice	A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use. <i>(Amended: Ord. 2018-03-04)</i>
<u>Accessible</u>	<u>In compliance with the Federal accessibility guidelines and standards. Accessible sites and facilities do not contain barriers limiting their use by people with disabilities.</u>
<u>Accessory renewable energy system</u>	<u>A system accessory to a primary structure or allowed use on the parcel that converts energy into a usable form such as electricity or heat and conveys that energy to the allowed structure or use. An Accessory Renewable Energy System is a solar thermal, photovoltaic, or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the primary use on the subject parcel.</u>

Accessory structure/building	A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building. <i>(Amended: Ord. 2018-03-04)</i>
Active wildlife site	A wildlife site that has been used within the past five (5) years by a sensitive wildlife species. <i>(Amended: Ord. 2018-03-04)</i>
Addition	An extension or increase in the area or height of an existing building. <i>(Amended: Ord. 2018-03-04)</i>
Adversely affect or adversely affecting	A reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on: <ol style="list-style-type: none"> 1. ((•—)) The context of a proposed action; 2. ((•—)) The intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence; 3. ((•—)) The relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and 4. ((•—)) Proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level. <i>(Added: Ord. 2018-03-04)</i>
Agency official	The federal, state, or local agency head or designee who has authority over a proposed project. <i>(Amended: Ord. 2018-03-04)</i>
<u>Agricultural building</u>	<u>A building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, and processing facilities.</u>
Agricultural specialist (SMA)	A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience. <i>(Amended: Ord. 2018-03-04)</i>
Agricultural structure building	A structure <u>(not including buildings) ((or building)) located on a farm or ranch and used in the operation ((for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock.)) These include, but are not limited to ((barns, silos, workshops, equipment sheds, greenhouses,)) wind machines (orchards), ((processing facilities,)) storage bins fences, trellises, and irrigation systems ((and structures.))</u> <i>(Amended: Ord. 2018-03-04)</i>
Agricultural use	The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, furbearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes: <ol style="list-style-type: none"> 1. ((•—)) The operation or use of farmland subject to any agriculture-related government program. 2. ((•—)) Land lying fallow for one (1) year as a normal and regular requirement of good agricultural husbandry. 3. ((•—)) Land planted in orchards or other perennials prior to maturity. 4. ((•—)) Land under buildings supporting accepted agricultural practices. <p>Agricultural use does not include livestock feedlots.</p> <i>(Amended: Ord. 2006-08-21; Ord. 2018-03-04)</i>
Air	The mixture of gases comprising the earth's atmosphere. <i>(Added: Ord. 2018-03-04)</i>
Anadromous fish	Species of fish that migrate upstream to freshwater after spending part of their life in the ocean saltwater. <i>(Amended: Ord. 2018-03-04)</i>

Anaerobic	A condition in which molecular oxygen is absent (or effectively so) from the environment. <i>(Amended: Ord. 2018-03-04)</i>
Animal unit	An animal unit consists of one (1) adult horse, or two (2) ponies, or five (5) miniature horses. <i>(Amended: Ord. 2009-03-02; Ord. 2018-03-04)</i>
Aquaculture	The cultivation, maintenance, and harvesting of aquatic species.
Aquatic area	The water area of a stream, pond, or lake measured at the ordinary high water mark.
Archaeological resources	See "Cultural resource."
Archival research	Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.
<u>Background</u>	One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Background is represented in the space from four miles to the horizon.
Bed and breakfast inn	An establishment located in a structure designed as a single-family dwelling where more than two (2) rooms but fewer than six (6) rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as <u>traveler ((transient))</u> accommodations, not as rooming or boarding houses.
Best M((m))anagement P((p))actices (BMPs)	Conservation techniques and management measures that: <ol style="list-style-type: none"> 1. ((•—)) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; 2. ((•—)) Minimize adverse effects to groundwater and surface-water flow and circulation patterns; and 3. ((•—)) Maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.
Biodiversity (SMA)	A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.
Boat landing	A cleared area or developed structure used to facilitate launching or retrieving watercraft.
Buffer zone	An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.
Building	Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.
Camping or recreational vehicle	A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit and subject to review for consistency with this chapter if it is (1) connected to a sewer system (including septic tank), water, and electrical lines or (2) ((is)) occupied on the same parcel for more than sixty (60) days in any consecutive twelve (12) month period.
Campsite	Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.
Canopy closure (SMA)	For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.
Capability	The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.
Cascadian architecture (SMA)	Architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
Catastrophic situations (SMA)	Forces such as fire, insect and disease infestations, and earth movements.
Childcare center	A facility providing day care to three (3) or more children, but not including: <ol style="list-style-type: none"> 1. ((•—)) The provision of care that is primarily educational, unless provided to a preschool child for more than four (4) hours a day. 2. ((•—)) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion. 3. ((•—)) The provision of short-term care related to or associated with group athletic or social activities.

	<p>4. ((—))The provision of day care in the provider's home in the family living quarters for less than thirteen (13) children.</p>
Columbia River Gorge National Scenic Area Graphic Signing System	Sign design standards developed for the <u>National</u> Scenic Area for public signs in and adjacent to public road rights-of-way.
<u>Columbia River treaty tribes</u>	<u>See definition for Indian tribes.</u>
<u>Commercial development or use</u>	Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit ((or)) and produce stands.
<u>Commercial event</u>	<u>An organized gathering at an allowed commercial development. Such events include weddings, receptions, indoor concerts, and farm dinners, and are incidental and subordinate to the primary use on a parcel.</u>
Commercial forest products	Forest products including timber for lumber, pulp, and firewood for commercial purposes.
Commercial recreation	Any private (nongovernmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.
Community facility	Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.
Consulting parties (cultural resources)	Organizations or individuals who submit substantive written comments to the Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
Contiguous land	Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.
Counties	The six (6) counties within the <u>National</u> Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
Created opening (SMA)	A created forest opening with less than forty percent (40%) average canopy closure of overstory trees and less than sixty percent (60%) average canopy closure of understory trees averaging less than five (5) inches diameter at breast height for coniferous forests and less than twenty-five percent (25%) total canopy cover for oak woodlands. This definition does not include agricultural fields.
Creation (wetlands)	A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (one hundred (100) to two hundred (200) years).
Cultivation	Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.
Cultural resource	<p>((Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:)) The objects, features, sites and places that have meaning and significance for specific human groups and cultures. Cultural resources support the cohesive bonds of the communities that recognize and comprehend their significance. Cultural resources can be divided into four types: Archaeological Resources, Historic Buildings, Traditional Cultural Properties and Traditional Use Areas.</p> <p>1. ((—))Archaeological resources. ((Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least fifty (50) years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and eave shelters; rock art such as petroglyphs, and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.)) The artifacts and features left in the landscape of early American Indian activities and the historic activities of early settlers. Artifacts are human-manufactured items and the waste material from manufacture. Features are the human alterations in the landscape. Artifacts include arrowheads and the stone waste flakes from making them and historic cans, bottles, ceramics and wooden and metal objects left in dumps or scattered in the landscape. Features include human-made pits in talus slopes, stacked rocks, rock walls, blazed and scarred trees, ditches, railroad grades, wagon roads, cabin foundations and other human modifications of the natural landscape.</p> <p>2. ((—))Historic buildings and structures. ((Standing or aboveground buildings and structures that are at least fifty (50) years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.)) Standing structures and their associated features. Often, they are still in use but can be abandoned and deteriorating. They are distinct from historic archaeological resources by being above ground and not collapsed to the level of the surrounding landscape.</p>

	<p>3. ((—)) Traditional cultural properties. (<u>Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history, a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock-structures, trees, and rock outcrops.</u>) Monumental sites, sacred places, legendary areas, mythical locations, traditional gathering areas, and landscapes and landscape features that are identified by the specific communities that hold meaning for them. They maintain and perpetuate values and practices of the group that attach significance to them. They provide spiritual cohesion to the community.</p> <p>4. Traditional Use Areas: Procurement and processing sites in the landscape for every kind of resource a society needs to perpetuate its specific culture. They are the sources for food, medicine, fibers and tools that provide subsistence for a specific group's culture.</p>
Culturally significant foods	<u>Natural resources used by Native Americans for subsistence, medicine and ceremony, including: water, fish, big game, roots, and berries.</u>
Culturally significant plants and wildlife	<u>Native plant and animal species essential to the culture of a Native American group.</u>
Cumulative effects	The combined effects of two (2) or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.
Cut	An area where soil or earth is excavated or removed in conjunction with development activities.
Days	Calendar days, including weekends and holidays.
Days, working	Days during which Clark County Community Development Department offices are open to the public, excluding weekends and holidays.
Dedicated site	An area actively devoted to the current use and as delineated on the site plan.
Deer and elk winter range	Areas normally used, or capable of being used, by deer and elk from December through April.
Defensible space	<u>A break in groundcover fuels, adjacent to and surrounding buildings.</u>
Destruction of wetlands	Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.
Developed recreation	Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.
Developed road prism (SMA)	The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.
Development	Any land division or ((structure, including but not limited to)) new construction or modification of buildings, ((and)) structures and roads, and any earth-moving activity, including, but not limited to, mining, dredging, filling, grading, paving, and excavation.
Diameter at breast height (dbh)	The diameter of a tree as measured at breast height.
Distance zone	<u>Distance zones (see Background, Middleground, and Foreground) are used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Generally, the closer a development is to the area it is being viewed from, the more attention will need to be given to site placement, design features, and mitigations to ensure the development blends with the landscape.</u>
Duplex	A building containing two (2) dwelling units and designed for occupancy by two (2) families.
((Dwelling, single-family))	((A detached building containing one (1) dwelling unit and designed for occupancy by one (1) family only.))
Dwelling unit	A single self-contained unit ((designed for occupancy by one (1) family and having not more than one (1)-cooking)) with basic facility needs for day-to-day living. Facility needs include, but are not limited to, a food preparation area or kitchen, bedrooms, and a full bathroom..
Earth materials	Any rock, natural soil or any combination thereof. Earth materials do not include nonearth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

Effect on treaty rights	To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yak a ima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the federal courts.
Emergency/disaster	A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.
Emergency/disaster response	Actions involving any development or vegetation removal that must be taken immediately in response to an emergency/disaster event. Emergency/disaster response actions that do not involve any structural development or ground-disturbance activities are not included in this definition.
Endemic	Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.
Enhancement (natural <u>and</u> scenic resources)	<u>A human activity that increases or makes greater the value, desirability or attractiveness of one or more functions of an existing sensitive area. For riparian areas, such as wetlands, streams, and lakes, enhancement is generally limited to the area that is degraded. Enhancing a sensitive natural resource area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable. ((A human activity that increases one (1) or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian-area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.))</u>
Ephemeral streams (EMA)	Streams that contain flowing water only during, and for a short duration after, precipitation events.
Ethnography	The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.
Equitable recreation	<u>Development and services that are equally accessible and available to all people regardless of income level, ethnicity, gender, ability, or age.</u>
Existing use or structure	Any use or structure that was legally established <u>and that has continued to operate lawfully and has not been discontinued</u> . "Legally established" means: <ol style="list-style-type: none"> 1. <u>((•—))</u> The landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; 2. <u>((•—))</u> The use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and 3. • Any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.
Exploration, development (extraction and excavation), and production of mineral resources	All or any part of the process of surface, underground, or submerged mining of mineral resources, <u>and transportation of mineral resources from the site</u> . Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For <u>Section 40.240((the Management Plan))</u> , this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource <u>and ((to))</u> transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants is considered industrial uses.
Fill	The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.
Finished grade	The final elevation of the ground level of a property after construction is completed.
<u>((Fire break))</u>	<u>((A break in groundcover fuels, adjacent to and surrounding buildings.))</u>
Footprint	The area that falls directly beneath and shares the same perimeter as a structure.
Forbs	Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grass-like plants.
Foreground <u>((SMA))</u>	<u>One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Foreground is represented in the space from zero (the viewer) up to ((0))one-half (1/2) mile((on either side of a traveled road or trail)).</u>
Forest health (SMA)	A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

Forest practice (SMA)	Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of twelve (12) years or less are considered agricultural uses.
Forest practices (GMA)	Those activities related to the growing and harvesting of forest tree species, as defined by the Washington Forest Practices Act.
Forest products	Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
Forest Service	The United States Department of Agriculture Forest Service – National Scenic Area Office.
Forest stand structure (SMA)	The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.
Forest use	The growing, propagation, and harvesting of forest tree species and other forest products.
Fruit and produce stand	A venue on a farm or ranch selling produce and agricultural products primarily grown on the subject farm or ranch. Associated incidental agricultural products from the local region and associated incidental marketing materials shall not make up more than 25% of the sales at the stand. Incidental products may include processed foods like jams and jellies. Foods prepared for consumption on the premises are not permitted. Fruit and produce stands are not a commercial use.
Fully screened	A description used when determining compliance with the scenic standards (visually subordinate and not visually evident), where ((of the relative visibility of)) a structure, development or use ((where that structure)) is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). See Scenic Resources Implementation Handbook for more information regarding screening for development in the National Scenic Area.
Gorge Commission	The Columbia River Gorge Commission.
Grade (ground level)	The average elevation of the finished ground elevation as defined by the International Building Code.
Grading	Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
Hazard tree (SMA)	A tree with a structural defect that will predictably result in whole or partial failure within one-and-one-half (1.5) tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.
Height of building	The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.
Herbaceous	A plant with no persistent woody stem above the ground, with characteristics of an herb.
Herbs	Nonwoody (herbaceous) plants, including grasses and grass-like plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than three (3) feet tall shall be considered part of the herbaceous layer.)
Historic buildings and structures	See “Cultural resource.”
Historic survey	Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.
Home occupation	A small-scale commercial use conducted in a legal single-family dwelling or accessory structure, employing the residents of the dwelling and up to three outside employees. Periodic use of home offices, studios, and other work areas used only by the residents of the dwelling are not a home occupation. ((Small-scale professional or vocational activities conducted on noncommercial properties in a manner which does not detract from residential or resource characteristics of the surrounding area. Under this chapter, home occupations shall be consistent in definition and usage with the Scenic Area Management Plan provisions for cottage industries and home occupations.))
Horses, boarding of (GMA)	The stabling, feeding, pasturing and grooming, or the use of stalls and related facilities, such as training arenas, corrals, and exercise tracks, for the care of horses not belonging to the owner of the property. These facilities are either operated for a fee or by a nonprofit organization. <i>(Amended: Ord. 2009-03-02)</i>
Hydric soil	A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

<u>Immediate Foreground for scenic corridors</u>	<u>A subset of one of the three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Immediate foreground is represented in the space from zero (the viewer) up to one-quarter mile. For scenic travel corridors in the GMA, immediate foreground also includes lands within one-quarter mile of the edge of pavement. In the SMAs, immediate foreground includes the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs (such as Crown Point or Multnomah Falls).</u>
In-lieu <u>or treaty fishing access</u> sites	Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 79-14 and Public Law 100-581, 401. Additional in-lieu <u>or treaty fishing access</u> sites will be provided for.
((Indian-t))Tribal government	The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs ((Reservation of Oregon))(Tribal Council), and the Confederated Tribes and Bands of the Yaka((i))ma ((Indian))Nation (Tribal Council).
Indian tribes	The Nez Perce Tribe, the Confederated Tribes and Bands of the Yak((i))ama ((Indian))Nation, the Confederated Tribes of the Warm Springs((Reservation of Oregon)), and the Confederated Tribes of the Umatilla Indian Reservation.
Industrial uses	Any use of land or water primarily involved in: <ol style="list-style-type: none"> 1. ((•—))Assembly or manufacture of goods or products; 2. ((•—))Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit; 3. ((•—))Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service; or 4. ((•—))Production of electric power for commercial purposes.
Interpretive displays	Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.
Key components	The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.
Key viewing areas	Those portions of <u>identified</u> important public roads, parks, or other vantage points within the <u>National</u> Scenic Area from which the public views <u>National</u> Scenic Area landscapes. <u>Such portions include gathering points, rest areas, roads and trails that provide primary access to the area, parking lots, and associated recreation areas. Identified areas ((These)) include:</u> <ol style="list-style-type: none"> 1. ((•—))Historic Columbia River Highway (including the Historic Columbia River Highway State Trail); 2. ((•—))Crown Point; 3. ((•—))Highway 1-84, including rest stops; 4. ((•—))Multnomah Falls; 5. ((•—))Washington State Route 14; 6. ((•—))Beacon Rock; 7. ((•—))Panorama Point Park; 8. ((•—))Cape Horn; 9. ((•—))Dog Mountain Trail; 10. ((•—))Cook-Underwood Road; 11. ((•—))Rowena Plateau and Nature Conservancy Viewpoint; 12. ((•—))Portland Women's Forum State Park; 13. ((•—))Bridal Veil State Park; 14. ((•—))Larch Mountain (including Sherrard Point); 15. ((•—))Rooster Rock State Park; 16. ((•—))Bonneville Dam Visitor Centers; 17. ((•—))Columbia River; 18. ((•—))Washington State Route 141; 19. ((•—))Washington State Route 142; 20. ((•—))Oregon Highway 35; 21. ((•—))Sandy River; and 22. ((•—))Pacific Crest Trail. <u>For projects located ((I))in the SMAs only:</u> <ol style="list-style-type: none"> 1. ((•—))Old Highway 8 (previously known as Old Washington State Route 14 and ((I))County Road 1230); 2. ((•—))Wyeth Bench Road (also known as Wyeth Road); 3. ((•—))Larch Mountain Road.((, and))

	((— Sherrard Point on Larch Mountain.))
Land division	The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.
Landscape setting	The combination of land use, <u>and cultural features</u> , <u>landform pattern and features</u> , <u>((and-))</u> vegetation <u>((patterns))</u> <u>and waterform</u> that distinguish an area in appearance and character from other portions of the National Scenic Area.
Livestock feedlot	Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and furbearers. Feedlots do not include winter pasture or winter hay-feeding grounds.
Lot line adjustment	Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels. <i>(Amended: Ord. 2006-08-21)</i>
Maintenance	Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.
Management Plan	The document entitled “Management Plan for the Columbia River Gorge National Scenic Area” adopted October 14, 1991, <u>as amended through October 2020((and updated April 9, 2004. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for the Special Management Area.))</u>
<u>Managerial Setting</u>	<u>The on-site controls (signs, regulations, or other regimentation) and types of facilities recreationists could expect when visiting recreation sites.</u>
<u>Middleground</u>	<u>One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Middleground is represented in the space between the foreground and the background. The area located from one-half mile up to four miles from the viewer.</u>
Mitigation	The use of any or all of the following actions, <u>in the following order of priority:</u> <u>1. ((—))</u> Avoiding the impact altogether by not taking a certain action or parts of an action; <u>2. ((—))</u> Minimizing impacts by limiting the degree or magnitude of the action and its implementation; <u>3. ((—))</u> Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; or <u>4. ((—))</u> Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action. <u>5. Offsetting impacts by creating or enhancing affected resources.</u> <u>6. Monitoring the result of mitigation actions and taking appropriate corrective actions.</u>
Mosaic (SMA)	The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.
Multifamily dwelling	A dwelling constructed or modified into two (2) or more <u>((single family-))</u> dwelling units.
<u>National Scenic Area</u>	<u>The Columbia River Gorge National Scenic Area.</u>
Native species	Species that naturally inhabit an area.
Natural grade	The undisturbed elevation of the ground level of a property before any excavation or construction operations.
Natural resource specialist	A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.
Natural resource-based recreation (SMA)	Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the National Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.
Natural resources	Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
Nonprofit organization	An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.
Not visually evident (SMA)	<u>One of the two scenic standards applicable within the National Scenic Area. A ((visual-quality standard)) description of the relative visibility of a development, structure or use that provides for development.</u>

	<p><u>structures</u> or uses that <u>are((is))</u> not visually noticeable to the casual visitor <u>and the defining landscape setting characteristics appear intact.</u> <u>((Developments or uses shall only-))</u>Deviations may be present but must repeat form, line, color, <u>((and))</u>texture and pattern common to the natural landscape setting so completely and at such scale, proportion, <u>((that are frequently found in the natural landscape, while changes in their qualities of size, amount,))</u>intensity, direction, pattern, etc., <u>that it ((shall-))</u>not be noticeable.</p>
Old growth	A forest stand usually at least one hundred eighty (180) to two hundred twenty (220) years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.
Open spaces	Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include: <ol style="list-style-type: none"> 1. <u>((•—))</u>Scenic, cultural, and historic areas; 2. <u>((•—))</u>Fish and wildlife habitat; 3. <u>((•—))</u>Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to state or federal endangered species acts; 4. <u>((•—))</u>Ecologically and scientifically significant natural areas; 5. <u>((•—))</u>Outstanding scenic views and sites; 6. <u>((•—))</u>Water areas and wetlands; 7. <u>((•—))</u>Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant; 8. <u>((•—))</u>Potential and existing recreation resources; and 9. <u>((•—))</u>Federal and state wild, scenic, and recreation waterways.
Operational (SMA)	For new agricultural use, an agricultural use shall be deemed operation operational when the improvements and investments described in the stewardship plan are in place on the parcel.
Ordinary high water mark	The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.
Other related major structure (SMA)	A structure related to a dwelling on a parcel in <u>((the-))</u> <u>an</u> SMA that is less than forty (40) acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of “accessory building” is not an “other related major structure” or a “major development action.”
<u>Overnight accommodations (GMA)</u>	<u>The rental of one or more rooms located in legal single-family dwelling on a daily or weekly basis. Overnight accommodations are clearly incidental to the use of a structure as a single-family dwelling and are owner-operated.</u>
Overstory (SMA)	For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.
Parcel	<ol style="list-style-type: none"> 1. <u>((•—))</u>Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in Section 40.240.390 shall not be considered a parcel. 2. <u>((•—))</u>Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 17, 1986. 3. <u>((•—))</u>A unit of land legally created and separately described by deed or sales contract after November 17, 1986, if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service <u>((Officer-))</u>prior to the Final Interim Guidelines. 4. A unit of land shall not be considered a separate parcel simply because the subject tract of land: <ol style="list-style-type: none"> a. <u>((•—))</u>Is a unit of land solely created to establish a separate tax account; b. <u>((•—))</u>Lies in different counties; c. <u>((•—))</u>Lies in different sections or government lots; d. <u>((•—))</u>Lies in different land use or zoning designations; or e. <u>((•—))</u>Is dissected by a public or private road.
<u>Physical Settings</u>	<u>The physical quality of the landscape at a recreation site, and how rustic recreation facilities may appear. Physical setting is distinct and not to be confused with landscape settings and landscape setting character descriptions.</u>
Practicable	Able to be done, considering technology and cost.
Pre-existing	Existing prior to the adoption of the <u>first</u> Columbia River Gorge National Scenic Area Management Plan <u>on October 15, 1991.</u>

Previously disturbed	An area of land where the natural surface has been graded, excavated, paved ((and/)) or graveled.
<u>Priority Habitat</u>	<u>Areas that provide habitat for sensitive wildlife determined by Forest Service or Washington Department of Fish & Wildlife.</u>
Primarily	A clear majority as measured by volume, weight, or value.
<u>Public dock</u>	<u>A dock constructed, maintained and operated by a federal, state, local, or tribal government entity to provide public access to a water body.</u>
Project area	The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.
Public use facility	Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.
Rare plant species	<p><u>Various categories of plants and plant communities cited in federal and state programs. Rare plants and rare plant ecosystems are:</u></p> <ol style="list-style-type: none"> 1. <u>Endemic to the Columbia River Gorge and vicinity (see Table 40.240.870-1).</u> 2. <u>Listed as endangered or threatened pursuant to federal or state endangered species acts, or</u> 3. <u>Designated global or state status rank 1, 2, or 3 by the Washington Natural Heritage Program.</u> <p><u>In the SMAs, rare plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists. ((Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.))</u></p>
<u>Rare wildlife species</u>	<p><u>Wildlife species that are:</u></p> <ol style="list-style-type: none"> 1. <u>Listed as endangered or threatened pursuant to federal or state endangered species acts,</u> 2. <u>Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,</u> 3. <u>Considered to be of special interest to wildlife management authorities and the public (great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).</u> <p><u>In the SMAs, rare wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</u></p>
Reconnaissance survey	Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.
Recreation facility	A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than one quarter (1/4) mile of land that does not contain any such <u>recreational</u> developments or improvements, except for roads and/or pathways.
Recreation Opportunity Spectrum (ROS)	<p>A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).</p> <ol style="list-style-type: none"> 1. <u>((—)) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.</u> 2. <u>((—)) Semi-primitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.</u> 3. <u>((—)) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.</u> 4. <u>((—)) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.</u> 5. <u>((—)) Suburban: Areas representing the rural urban interface, with urban like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.</u> 6. <u>((—)) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.</u>
Recreation resources	Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
<u>Recreation Setting</u>	<u>The tool for managing recreation development and opportunities based on the sites social, physical, and managerial setting</u>
<u>Reflective surface</u>	<u>Providing a reflection; capable of reflecting light or other radiation.</u>
Regularly maintained	An area of land that has been previously disturbed and where periodic actions have been taken to:

	<p>1. ((•—)) Keep the area clear of vegetation (e.g., shoulders, utility yards);</p> <p>2. ((•—)) Limit the height and type of vegetation (e.g., utility rights-of-way); <u>(and)</u> or</p> <p>3. ((•—)) Establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).</p>
Rehabilitation (natural resources)	A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.
Remnant old forest (SMA)	Large trees in the overstory that are well into the mature growth state (older than one hundred eighty (180) years).
Repair	Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.
Resource-based recreation	Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the <u>National</u> Scenic Area and that do not adversely affect those resources upon which they depend.
Responsible official	The director of the Community Development Department of Clark County or the director's authorized designate. The responsible official is responsible for the administration, interpretation and implementation of this chapter.
Restoration	A human activity that returns a resource from a disturbed or altered condition to a previous, less disturbed or less altered condition. This definition does not modify or eliminate the Management Plan definition of restoration applicable only to wetlands.
Restoration (wetlands)	A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.
Review uses	Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.
Riparian area	The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.
Road	<p>The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:</p> <p>1. ((•—)) Ways described as streets, highways, throughways, or alleys.</p> <p>2. ((•—)) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.</p> <p>3. ((•—)) Structures that provide for continuity of the right-of-way, such as bridges.</p>
((Scenie Area))	((The Columbia River Gorge National Scenic Area.))
Scenery Management System	<u>The overall framework for the orderly inventory, analysis, and management of scenery developed in coordination with the Forest Service.</u>
Scenic travel corridor	Those portions of Washington State Routes 14, 141, and 142 located in the <u>National</u> Scenic Area and specifically designated to be managed as scenic and recreational travel routes.
Secretary	The <u>U.S.</u> Secretary of Agriculture.
((Sensitive plant species))	<p><u>((Plant species that are:</u></p> <ul style="list-style-type: none"> <u>• Endemic to the Columbia River Gorge and vicinity;</u> <u>• Listed as endangered or threatened pursuant to federal or state endangered species acts; or</u> <u>• Listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.</u> <p><u>In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.))</u></p>

<u>((Sensitive wildlife species))</u>	<p><u>((Animal species that are:</u></p> <ul style="list-style-type: none"> • Listed as endangered or threatened pursuant to federal or state endangered species acts; • Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission; or • Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat-golden eagle, and prairie falcon. <p><u>In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.))</u></p>
Service station	A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
Serviceable	Presently useable.
Shall	Action is mandatory.
Should	Action is encouraged.
Shrub	A woody plant usually greater than three (3) feet but less than twenty (20) feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than three (3) feet tall shall be considered part of the herbaceous layer.)
Sign	Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
Significant cultural resource (SMA)	A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)
<u>Single-family Dwelling</u>	<u>A detached building containing one (1) dwelling unit and designed for occupancy by one (1) family only.</u>
Skyline	The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, <u>and is topographically visible ((as viewed-))</u> from a specified vantage point (generally a key viewing area, for the purposes of <u>Chapter 40. 240 ((the Management Plan))</u>). <u>The skyline is formed where the surface of the earth meets the sky except in existing densely forested landscapes with thick, unbroken coniferous tree cover characteristic to its setting, the skyline may be formed by the top of the vegetative canopy. ((In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless-areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.))</u>
<u>Social Settings</u>	<u>Identifies the opportunities for solitude as well as quantity and type of encounters visitors could experience when visiting a recreation site or area.</u>
Soil capability class	A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
Special habitat area	Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
Special streams	Streams that are primary water supplies for fish hatcheries and rearing ponds.
Stand	A group of trees possessing uniformity in regard to type, age, vigor, or size.
Story	A single floor level of a structure, as defined by the International Building Code.
Streams	Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. For the Management Plan, streams are categorized into two (2) classes: perennial streams and intermittent s <u>or ephemeral</u> streams. "Perennial stream" means a stream that flows year-round during years of normal precipitation. "Intermittent stream" means a stream that flows only part of the year, or seasonally <u>(ephemeral)</u> , during years of normal precipitation.

Structure	That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, <u>patios, driveways,</u> and additions/alterations to structures, <u>including repaving or resurfacing roads, driveways, and patios.</u>
Submit	To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or e-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.
Subsurface testing	Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.
Suitability	The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; <u>whether the land is committed to another land use that does not allow for agricultural use;</u> surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources, compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.
Thinning (SMA)	A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than forty percent (40%) and the understory layer is less than sixty percent (60%) average canopy closure of trees averaging less than five (5) inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than twenty-five percent (25%). <i>(Amended: Ord. 2006-08-21)</i>
<u>Topographic Visibility</u>	<u>Refers to areas that can be seen (generally from a key viewing area, for the purpose of the Management Plan) if all vegetation were to be removed.</u>
Total canopy closure (SMA)	For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.
<u>Traditional foods</u>	<u>Natural and cultural resources that Native Americans rely on for sustenance, based on history, culture and tradition.</u>
<u>Trail Characteristics</u>	<u>Tools to describe the types of trail conditions that recreationists should expect when visiting a recreation resource.</u>
<u>((Travelers accommodations))</u>	<u>((Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.))</u>
Treatment (SMA)	For forest practices, a site-specific operation that carries out the forest management objectives for an area.
Treaty rights or other rights	Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
Tributary fish habitat	Streams that are used by anadromous or resident fish for spawning, rearing <u>((and/))</u> or migration.
Understory (SMA)	For forest practices, the shorter or immature trees below the tall or mature overstory trees.
<u>Unobtrusive</u>	<u>When a structure does not intrude or visually dominate the scene of a landscape and for which the introduced forms, lines, colors, textures, and patterns mimic the native environment.</u>
Undertaking	Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)]. <i>(Amended: Ord. 2009-03-02)</i>
Unimproved lands	Lands that generally do not have developments such as buildings or structures.
Upland	Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, <u>((and/))</u> or hydrologic characteristics associated with wetlands.
Uses allowed outright	New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
Utility facility	Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

Vested right	The right to develop or continue to develop a use, a development, or a structure under the regulations in force at the time of when a complete pre-application or application was filed, subject to the application being approved.
Viewshed	A landscape unit <u>((seen)) visible</u> from a key viewing area.
<u>((Visual Quality Objective - VQO))</u>	<u>((A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot-National Forest Plans.))</u>
Visually subordinate	<u>One of the two scenic standards applicable in the National Scenic Area.</u> A description of the relative visibility of a <u>development</u> , structure or use where that structure does not noticeably contrast with the <u>((surrounding)) defining</u> landscape <u>setting characteristics</u> , as viewed from a specified vantage point (generally a key viewing area, for the Management Plan) , and the setting appears only slightly altered <u>(distinctive characteristics of that setting remain dominant)</u> . As opposed to <u>development</u> , structures <u>or uses</u> that are fully screened, structures that are visually subordinate may be partially visible <u>but would be difficult to discern to the common viewer.</u> <u>((They are not visually dominant in relation to their surroundings.))</u> Visually subordinate <u>development, structures, or uses as well as</u> forest practices in the SMA <u>s</u> shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of <u>((size))scale,</u> <u>((amount))proportion</u> , intensity, direction, pattern, etc., shall not dominate the natural landscape setting.
Water-dependent	Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.
Water-related	Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.
Wetlands	Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.
Wetlands functions	The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.
Winery <u>or Cidery</u>	An agricultural <u>((facility))building</u> used for processing <u>((grapes))fruit</u> into wine <u>or cider</u> , including laboratories, processing areas, offices, and storage areas. A winery <u>or cidery</u> is distinct from a wine <u>or cider</u> sales <u>and</u> tasting room; each of these uses must be explicitly reviewed and approved.
Wine <u>or cider</u> sales <u>and</u> tasting room	A facility that is accessory to a winery <u>or cidery</u> and used for tasting and retail sales of wine <u>or cider</u> , including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine <u>or cider</u> sales <u>and</u> <u>((/))</u> tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved pursuant to Section 40.240.290. A wine <u>or</u> <u>cider</u> sales <u>and</u> <u>((/))</u> tasting room is distinct from a winery <u>or cidery</u> ; each of these uses must be explicitly reviewed and approved.
Woody plant	A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

1
2 (Amended: Ord. 2006-05-04)

3

4 **Section 7. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.050, and most recently
5 amended by Sec. 24 of Ord. 2018-01-09 are each hereby amended as follows:

6

7 **40.240.050 Applications and Procedures**

8 A. Application for Review and Approval.

9 1. Applications received under this chapter shall be reviewed as Type II procedures specified in Section
10 40.510.020, except where specified otherwise herein.

1 2. Prior to initiating any use or development which requires review and approval by the responsible official
2 or examiner, an application shall be completed pursuant to this section. The responsible official shall accept
3 and review the application pursuant to Sections 40.240.050(C) through 40.240.400 for consistency with the
4 appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the
5 acceptance of an application by the responsible official. The responsible official will charge a fee for review of
6 applications.

7 3. Standard application forms shall be available at Clark County and Columbia River Gorge Commission
8 offices.

9 4. An application for permit review within the Columbia River National Scenic Area shall submit eight (8)
10 individually bound copies of the following materials unless a lesser number is specified:

11 a. The original application form provided by the planning responsible official shall be completed and
12 signed by the applicant;

13 b. The pre-application conference summary and a description of information submitted in response to
14 the pre-application conference;

15 c. The following maps of the GIS development packet (as available from the Community Development
16 Department):

17 (1) General location map;

18 (2) Elevation contours map;

19 (3) Aerial photography map (most recent year available from the Community Development
20 Department);

21 (4) Aerial photography with contours;

22 (5) Current zoning map;

23 (6) Current comprehensive plan map;

24 (7) Map of C-Tran bus routes, park and trails;

25 (8) Water, sewer and storm systems map;

26 (9) Soil type map;

27 (10) Environmental constraints map; and

28 (11) Assessor's quarter-section map;

29 d. A narrative explaining how the application meets or exceeds each of the applicable approval criteria
30 and standards, and issues identified in the pre-application conference, including the minimum area and
31 dimensions of the base zone and a general description of how services will be provided to the site:

32 (1) The applicant ((needs to)) shall provide conceptual elevation drawings for the proposed
33 structures and a description of the height, shape, color, building materials, exterior lighting and
34 landscaping materials. The drawings ((should)) shall include the appearance of proposed buildings
35 when built and surrounding final grades (see Section 40.240.800). The applicant shall provide a list of
36 key viewing areas from which the proposed use or development would be visible. If the applicant feels
37 the site is not visible from any key viewing areas the applicant shall demonstrate this((must be
38 demonstrated));

1 (2) If the site is visible from any key viewing area, the applicant is encouraged to provide
2 photographs from the key viewing area toward the building site with balloons or other siting device to
3 verify visual subordination. Photographs can also be used to verify the site is not visible from any key
4 viewing area, if that is the case;

5 (3) The height of buildings is required in the applications, even if the site is not visible from a key
6 viewing area;

7 (4) The applicant shall address all applicable criteria outlined in Section 40.240.800;

8 e. Information necessary to demonstrate that the subject lot(s) has been created legally:

9 (1) Prior county short plat, subdivision, lot determination or other written approvals, if any, in
10 which the parcel was formally created or determined to be a legal lot; or

11 (2) Sales or transfer of deed history, dating back to 1969, or a condition satisfying subsection
12 (A)(4)(e)(1) of this section, to include copies of recorded deeds and/or contracts verifying the date of
13 creation of the parcel in chronological order with each deed identified with the assessor's lot number;

14 f. A proposed plan drawn to scale. The scale of the plan shall be large enough to allow the responsible
15 official to determine the location and extent of the proposed use or development and evaluate its effects on
16 scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of one (1) inch
17 equals two hundred (200) feet (1:2,400), or a scale providing greater detail. The plan shall clearly depict
18 the following information:

19 (1) General Information.

20 (a) Applicant's name, mailing address and phone number;

21 (b) Owner's name and mailing address;

22 (c) Contact person's name, address and phone number;

23 (d) North arrow (oriented to the top, left or right of the page), scale and date;

24 (e) Proposed name of project;

25 (f) Vicinity map covering one-quarter (1/4) mile radius from the development site; and

26 (g) Area of the site in acres or square feet;

27 (2) Existing Conditions. (For purpose of fully complete determination, only those existing
28 conditions that are shown on the GIS map, known by the applicant or are discussed in the pre-
29 application conference summary must be included on the proposed plan.)

30 (a) Environmental. On or within one hundred (100) feet of the site:

31 (i) Topography (at two (2) foot contour intervals if available from a public source) including any significant terrain features or landforms;

33 (ii) Watercourses (streams, rivers, etc.) with thread of stream surveyed for all on-site
34 watercourses;

35 (iii) Areas prone to flooding;

36 (iv) FEMA designated floodplains, flood fringe, or floodway;

37 (v) Water bodies and known wetlands;

- (vi) Wetland delineation and assessment study for all on-site wetlands, four (4) copies of study required;

(vii) Any unstable slopes and landslide hazard areas;

(viii) Geotechnical report for all unstable slopes or landslide hazard areas on the site;

(ix) Significant wildlife habitat or vegetation; and

(x) Significant historic, cultural or archaeological resources;

(b) Land Use and Transportation.

(i) ~~((Layout,))Boundaries, ((square footage and)) dimensions and size (acres or square feet) of the subject ((all))parcel(s);~~

(ii) Location and size ((s)) of ((any))existing building(s) and structures on the site and their use;

(iii) Location of existing services, including power and telephone poles and lines, and outdoor lighting, and ((L))location and width of existing easements for access, drainage, utilities, etc.;

(iv) Name, location and width of existing rights-of-way;

(v) Name, location, width and surfacing materials (e.g., gravel, asphalt or concrete, etc.) of existing road((way))s, driveways, trails and easements (private and public);

(vi) Location of existing driveways and those driveways across the street to include distance between driveways and roadways (centerline to centerline);

(vii) Location and width of existing pedestrian and bicycle facilities on and within one hundred (100) feet of the site; and

(viii) Transit routes and stops within one-quarter (1/4) mile of the development site;

(c) Water and Sewer. Make a note on the plan indicating the following:

(i) Location and direction to the nearest fire hydrant;

(ii) Location of existing sewage disposal systems and wells or other water supplies on the site; and

(iii) Location of existing sewage disposal systems and wells or other water supplies within one hundred (100) feet of the site (as available from the health department);

posed Improvements.

Environmental.

(a) Wetland, stream, steep bank buffer areas/protected areas; and

(b) Planned enhancement areas.

Land Use and Transportation.

(a) Dimensions of all proposed easements;

- (b) Location (i.e., dimensions from property lines) of any existing buildings to remain on the site to include square footage. For all structures include the number of stories, construction type (e.g., metal, wood, concrete block, etc.) and proposed uses;

(c) Setbacks from property lines shall be shown on the site plan;

(d) Location and width of all road rights-of-way;

(e) Location width (e.g., curb to curb distance) and surface material of all proposed roadways (private or public), provided by drawing or note and typical cross-section (from county road standards);

(f) Location of all road segments in excess of fifteen percent (15%) grade that are either on the site or within five hundred (500) feet of the site which are being proposed for site access;

(g) Location, width, estimated grade and surface material of off-site roads which will provide access to the site within five hundred (500) feet of the site;

(h) Location and width of existing and proposed roads, driveways and trails, including for corner lots and driveways where sight distance standards cannot be met;

(i) Sight distance triangles where sight distance standards cannot be met;

(j) Location and width of proposed pedestrian and bicycle improvements other than those in standard locations within road rights-of-way;

(k) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting, and Location and width of proposed easements for access, drainage, utilities, etc. (provided by drawing or note);

(l) Location and size of existing and ((Layout of)) proposed structures including square feet;

(m) Architectural drawings and sketches, indicating floor plan, elevation, types of materials and colors, and type of construction per the International Building Code;

(n) Narrative on proposed uses, hours of operation, frequency of truck deliveries, and construction schedule;

(o) Location, dimensions and number of off-street parking and loading areas;

(p) Sign plan; and

(q) Location and dimensions of recyclable and solid waste storage areas.

(r) Location and depth of all proposed grading and ditching.

- 1 (d) Location, height and materials of fences, buffers, berms, walls and other methods of
2 screening;

3 (e) Surface water management features integrated with landscape, recreation or open space
4 areas;

5 (f) Location, size and construction type of hard landscaping features such as pedestrian
6 plazas;

7 (g) Active or passive recreational or open space features;

8 (h) Final site contours; and

9 (i) The location of all fire hydrants;

10 h. A preliminary stormwater plan pursuant to Section 40.386.030;

11 i. A proposed phasing plan (if any proposed) to include transportation and water quality improvements;

12 j. A transportation impact study, if required, pursuant to Chapter 40.350;

13 k. A utility review from the public sewer purveyor or one (1) copy of a preliminary soil suitability
14 analysis, or equivalent for on-site systems from the health department;

15 l. A utility review from the public water purveyor, noting the ability to meet water pressure and fire
16 flow requirements of the fire marshal or current evidence of the availability of suitable groundwater where
17 water purveyor has determined public water or community water systems cannot be provided;

18 m. A completed State Environmental Policy Act (SEPA) checklist;

19 n. Applications necessarily associated with the Gorge Permit review, to the extent applicable, for
20 variances to dimensional requirements of the base or overlay zones, for wetland and habitat permits, and
21 for modifications to the road standards in Chapter 40.350;

22 o. Any and all existing covenants or restrictions and ~~(if for)~~ easements that apply to the property;

23 p. The corners of each proposed building should be staked and flagged at the time of application;

24 q. Appropriate protections of the streams that are on the property need to be taken in accordance with
25 Chapter 40.440 and Section 40.240.8~~40(50)~~;

26 r. A forest practice application is required for any commercial removal of trees from the property;

27 s. In the SMA, applications and/or site plans shall contain the natural resources information required in
28 Section 40.240.880;

29 t. Any additional information that the applicant feels will assist in the evaluation of the proposal
30 including, but not limited to, maps, drawings, and development plans;

31 u. The signature of the applicant and property owner or a statement from the property owner indicating
32 that he is aware of the application being made on his property;

33 v. The signature of the property owner on a statement that authorizes the responsible official or the
34 responsible official's designee reasonable access to the site in order to evaluate the application.

35 5. Applications for the following uses or developments shall include additional information as required by
36 the pre-application staff report or by the responsible official:

- a. All buildings, roads, or mining and associated activities proposed on lands visible from key viewing areas, pursuant to Section 40.240.800;
- b. In the GMA, production and/or development of mineral resources and expansion of existing quarries pursuant to Sections 40.240.~~285((800(B)(14) and (B)(15)))~~;
- c. In the GMA, all proposed structural development on sites visible from key viewing areas and involving more than two hundred (200) cubic yards of grading, regardless of slope, shall require a grading plan, pursuant to Section 40.240.800(B)~~(21((6)))~~;
- d. In the GMA, all applications for structural development involving more than one hundred (100) cubic yards of grading with slopes greater than ten percent (10%) shall require a grading plan pursuant to Section 40.240.800(B)~~(21((6)))~~;
- e. In the SMA~~s~~, all applications for structural development involving more than one hundred (100) cubic yards of grading with slopes greater than ten percent (10%) (except trails) shall include a grading plan pursuant to Section 40.240.800(B)~~(21((6)))~~;
- f. Elevation drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale, pursuant to Section 40.240.800(B)~~(21((6)))~~;
- g. In the GMA, vegetation management projects in public rights-of-way along scenic travel corridors, pursuant to Section 40.240.800(D)(4);
- h. Large-scale uses as listed in Section 40.240.820(A)(3)(c) shall include reconnaissance survey reports, pursuant to Sections 40.240.820(A)(3)(f) and (g);
 - i. Proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are fifty (50) years old or older, pursuant to Section 40.240.820(A)(3)(h)(3);
 - j. In the GMA, new uses located in or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to Section 40.240.180(A)(1);
 - k. In the GMA, any review use in a wetland or within a wetland buffer zone, pursuant to Section 40.240.840(A)(2);
 - l. In the GMA, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 40.240.~~840((5))0(C((A)(2)))~~;
 - m. In the GMA, any review use within one thousand (1,000) feet of a sensitive wildlife area or site, pursuant to Section 40.240.860(A)~~(3((2)))~~. Large-scale uses as listed in Section 40.240.860(C) shall also include field survey information, pursuant to Section 40.240.860(C)(6);
 - n. In the GMA, any review use within one thousand (1,000) feet of a rare (~~sensitive~~) plant, pursuant to Section 40.240.870(A)(2). Large-scale uses as listed in Section 40.240.870(C) shall also include field survey information pursuant to Section 40.240.870(C)(6);
 - o. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 40.240.430(A)(9), and if applicable, Section 40.240.430(A)(10);
 - p. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 40.240.430(A)~~(15((6)))~~;
 - q. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 40.240.430(A)(11);

- 1 r. In the SMA, on lands zoned Gorge Forest or Agriculture, a single-family dwelling, pursuant to
2 Section 40.240.510(B)(10);
3 s. In the SMA, on lands zoned Gorge Forest or Agriculture, forest practices, pursuant to Section
4 40.240.510(B);
5 t. In the SMA, on lands zoned Agriculture or Forest, clearing trees for new agricultural use, pursuant to
6 Section 40.240.510(B)(24);
7 u. In the SMA, on lands designated Open Space, any new use or development, pursuant to Section
8 40.240.600;
9 v. In the SMA, on lands zoned Gorge Agriculture or Forest, a single-family dwelling necessary and
10 accessory to agricultural use, pursuant to Section 40.240.430;
11 w. In the SMA, on lands zoned Gorge SMA Agriculture or Forest, farm labor housing and agricultural
12 buildings, pursuant to Section 40.240.430(B)(4);
13 x. In the GMA, on lands zoned Gorge Small Woodland, a single-family dwelling pursuant to Section
14 40.240.510(A)(1);
15 y. In the GMA, on lands zoned Gorge Small Woodland, a single-family dwelling in conjunction with
16 agricultural use pursuant to Section 40.240.430(A)(8);
17 z. In the GMA, on lands zoned Gorge Woodland, agricultural labor housing, pursuant to Section
18 40.240.510(A)(17((8))); and((40))

19 aa. Other uses as deemed necessary by the responsible official.

20 6. Completed application forms shall be submitted directly to the Community Development Department.

21 7. The requisite fee shall accompany the application.

22 (Amended: Ord. 2007-11-13; Ord. 2009-01-01; Ord. 2015-11-24; Ord. 2018-01-09)

23 B. Pre-Application Conference.

24 Within the Columbia River Gorge National Scenic Area pre-application conferences shall be mandatory for land
25 use proposals requiring Type II or Type III review pursuant to Section 40.510.020 or 40.510.030. The purposes of
26 the conference shall be to acquaint the applicant with the substantive and procedural requirements of this chapter, to
27 discuss the principal elements of the proposed action, and to identify guidelines that create opportunities or pose
28 constraints for the proposed action.

29 C. Contingent Vesting of Applications.

30 An application that is subject to pre-application review shall earlier contingently vest on the date a complete pre-
31 application is submitted. Contingent vesting shall become final if a fully complete application for substantially the
32 same proposal is submitted within one hundred eighty (180) calendar days of the date the responsible official issues
33 a written summary of pre-application review pursuant to Section 40.510.030(A)(4).

34 D. Acceptance of Application.

35 The responsible official shall review the application for completeness and adequacy within the time frame
36 pursuant to Chapter 40.510. To determine that an application is fully complete refer to Section 40.240.050(A),
37 Application for Review and Approval. Additional submittals additional to Section 40.240.050(A) may be required
38 through reference in the pre-application report.

1 1. No application shall be accepted until all documented omissions and deficiencies have been corrected by
2 the applicant. The responsible official shall notify the applicant of all omissions and deficiencies in writing
3 within the time frame pursuant to Chapter 40.510.

4 2. No application shall be accepted which the responsible official deems cannot be acted upon reasonably
5 within the time frame pursuant to Chapter 40.510, except when the applicant consents to a longer period for
6 action.

7 3. No application shall be accepted unless accompanied by a list of names and addresses of the adjacent
8 property owners within five hundred (500) feet of the subject parcel. A statement from the County Assessor or
9 appropriate agency confirming the accuracy of the list shall accompany the list.

10 4. No application for a proposed use which is explicitly prohibited by Section 40.240.110 shall be accepted.

11 a. The application shall be returned to the applicant.

12 b. A letter, signed by the responsible official, stating that the proposed use is prohibited and citing the
13 guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

14 c. Issuance of this letter shall not prohibit the applicant from appealing ((the))this administrative
15 decision pursuant to this title.

16 (Amended: Ord. 2006-08-21)

17 E. Notice of Development Review.

18 1. Notice of development review shall be issued pursuant to Section 40.510.020(E) or 40.510.030(E), and
19 shall provide the following information:

20 a. The notice shall state that the application and supporting documents are available for inspection at
21 Clark County and Gorge Commission offices during normal working hours.

22 b. The notice shall state the applicant must comply with all applicable local, state and federal laws.

23 c. The notice sent to governments of the four Columbia River Treaty Tribes shall request comments,
24 recommendations, or concerns relating to the protection of treaty rights, including rights to access, hunt,
25 fish, and gather. The notice shall include a site plan and also may include supplemental information and a
26 proposed treaty rights protection plans.

27 2. The notice shall be sent ((mailed)) to:

28 a. The Forest Service, Washington Department of Fish and Wildlife, Columbia River Gorge
29 Commission, ((Indian))governments of the four Columbia River Treaty Tribes, and the applicable city,
30 and local library, and any other party that has requested notice; and

31 b. The Washington Department of Natural Resources Natural Heritage Program, if the responsible
32 official or the Columbia River Gorge Commission or its staff determines that such notice is warranted;
33 provided, that if the Columbia River Gorge Commission or its staff determines that such notice is
34 warranted, it shall forward notice to the Heritage Program; and

35 c. As determined by Section 40.510.020(E) for Type II applications or Section 40.510.030(E) for Type
36 III applications.

37 3. In addition to notice, fully complete application packets shall be routed to the Gorge Commission and any
38 other party that has requested a fully complete application.

39 F. Comment Period.

1 Interested persons shall have fifteen (15) working days from the date which the notice is sent to submit written
 2 comments to the responsible official relative to the consistency of the proposed actions with the guidelines of this
 3 chapter. Comments received from a tribal government at any time during the responsible official's or examiner's
 4 review of a proposed development or use shall be considered to ensure that the proposed development or use does
 5 not affect or modify the treaty or other rights of that tribe. ((:))

- 6 1. Within seven (7) days of the close of the comment period, the responsible official shall determine if a
 7 wildlife management plan pursuant to Section 40.240.860(F) or a rare plant protection and rehabilitation plan
 8 pursuant to Section 40.240.870(F) is required.
- 9 2. For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is
 10 required and where the Commission is performing the survey, the survey shall be completed by the close of the
 11 comment period. Upon receipt of the completed survey, the responsible official shall forward the survey to the
 12 State Historic Preservation Officer (SHPO), and Indian Tribes pursuant to Sections 40.240.820(A)(2) and
 13 (B)(2)(a).
- 14 3. Within seven (7) days of the close of the thirty (30) day reconnaissance survey comment period for
 15 SHPO and Indian Tribes, the responsible official shall determine if an evaluation of significance pursuant to
 16 Section 40.240.820(C) is required.

17 G. Administrative or Examiner's Decisions((of the Responsible Official)).

- 18 1. ((In making a decision on a))For a proposed use or development, the responsible official or examiner
 19 shall:
 - 20 a. Consult with the applicant and such agencies as the responsible official deems appropriate;
 - 21 b. Consider information submitted by the applicant and all other relevant information available; and
 - 22 c. Consider all comments submitted pursuant to Section 40.240.050(F), and provide notice and
 23 consider the comments of the Forest Service and((or))Columbia River Gorge Commission. The absence
 24 of timely comments of any parties provided notice shall not automatically preclude the issuance of an
 25 administrative or examiner's decision.((the responsible official from issuing a decision.))
- 26 2. The responsible official or examiner shall approve a proposed use or development only if it is consistent
 27 with the standards of this chapter and other applicable regulations. In approving a proposed development
 28 action, the responsible official may impose conditions as necessary to ensure consistency with this chapter.
Conditions attached to approval of a proposed development action shall be recorded in county deeds and
records to ensure notice of the conditions to successors in interest. The administrative or examiner's decision
 31 shall include this requirement.
- 32 3. The administrative or examiner's decision ((responsible official shall issue a decision))on a proposed
 33 use or development shall include((ing)) findings of fact and conclusions of law and any conditions to ensure
 34 consistency with the standards of this chapter and other applicable regulations within the time frame pursuant
 35 to Section 40.510.020(F) or 40.510.030(F) except in one (1) or more of the following situations:
 - 36 a. The applicant consents to an extension of time;
 - 37 b. The responsible official or examiner determines that additional information is required pursuant to
 38 Section 40.240.050(A);
 - 39 c. The responsible official or examiner determines that additional information is necessary to evaluate
 40 the impacts of the proposed use to scenic, cultural, natural, and recreation resources; ((and))or
 - 41 d. Unforeseen circumstances including, but not limited to, weather or illness.
- 42 4. The responsible official shall ((mail-))send a copy of the administrative or examiner's decision to the
 43 applicant, the Commission, the Forest Service, the applicable state, the four (4) tribal governments ((Indian

1 Tribes)), the applicable county and((for)) city and each person who submitted comments pursuant to subsection
 2 (F) of this section. The administrative or examiner's decision shall set forth the rights of appeal under Sections
 3 40.510.020(H) or 40.510.030(I(H)).

4 5. The administrative or examiner's decision ((of the responsible official)) shall be ((final))dispositive
 5 unless a notice of appeal is filed in accordance with this title.

6 7. The administrative or examiner's decision ((of the responsible official))approving a proposed
 7 development action shall become void:

8 8. a. When the development action is not undertaken within two (2) years of the administrative or
 9 examiner's decision; or

10 b. When the development action is discontinued for any reason for one (1) year or more.

11 7. An applicant may request an extension of the validity of a development approval. Such request shall be
 12 considered an administrative action and shall be submitted to the responsible official prior to the expiration of
 13 such approval, in writing, stating the reason why an extension should be granted.

14 8. The responsible official may grant an extension of up to twelve (12) months in the validity of a
 15 development approval if it is determined that conditions, for which the applicant was not responsible, would
 16 prevent the applicant from commencing ((his))operation within the original time limitation. The responsible
 17 official shall not grant an extension if the site characteristics ((and))or new information indicate((s)) that the
 18 proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

19 9. The development approval timelines in this section shall take precedence over the development approval
 20 timelines in Section 40.500.010(B).

21 H. Standards for Applications and Expirations of Approvals.

22 1. Standards for Applications – Complete Application Required. Any proposed use, development or
 23 structure shall be reviewed according to the standards in effect on the date an applicant submitted a complete
 24 land use application to the reviewing agency. A complete application is one that the reviewing agency
 25 determines meets the Management Plan's requirements for:

26 a. A complete application form;

27 b. A complete site plan showing the proposed site (site plans with alternative sites or building
 28 envelopes are not sufficient); and

29 c. All applicable information specified in the parts of the Management Plan titled Resource Protection
 30 and Enhancement, Land Use Designations, and Administration. Incomplete applications shall not be
 31 reviewed.

32 2. Expirations of Approvals.

33 a. Notice Not Required. Expiration of any land use approval issued pursuant to this Columbia River
 34 Gorge National Scenic Area (Management Plan) shall be automatic. Failure to give notice of expiration
 35 shall not affect the expiration of a land use approval.

36 b. Land Use Approvals without Structures. Any land use approval issued pursuant to the Management
 37 Plan for a use or development that does not include a structure shall expire two (2) years after the date the
 38 land use approval was granted, unless the use or development was established according to all
 39 specifications and conditions of approval in the land use approval. For land divisions, "established" means
 40 the final deed or plat has been recorded with the county recorder or auditor.

41 c. Land Use Approvals with Structures. Any land use approval issued pursuant to the Management
 42 Plan for a use or development that includes a structure shall expire as follows:

1 (1) When construction has not commenced within (2) two years of the date the land use approval
 2 was granted; or

3 (2) When the structure has not been completed within (2) two years of the date of commencement
 4 of construction.

5 d. Commencement of Construction. As used in subsection (H)(2)(c)(1) of this section,
 6 “commencement of construction” shall mean actual construction of the foundation or frame of the
 7 approved structure. For utilities and development~~(§)~~ without a frame or foundation, “commencement of
 8 construction” shall mean actual construction of support structures for an approved aboveground utility or
 9 development or actual excavation of trenches for an approved underground utility or development. For
 10 roads, “commencement of construction” shall mean actual grading of the roadway.

11 e. Completion of Structure. As used in subsection (H)(2)(c)(2) of this section, “completion of the
 12 structure” shall mean:

13 (1) Completion of the exterior surface(s) of the structure; and

14 (2) Compliance with all conditions of approval in the land use approval.

15 f. Extension of Validity of Land Use Approvals. A request for extension of the time frames in
 16 subsections (H)(2)(b), (c)(1) or (c)(2) of this section shall be submitted in writing before the applicable
 17 expiration date.

18 (1) A reviewing agency may grant one (1) twelve (12) month extension to the validity of a land use
 19 approval if it determines that events beyond the control of the applicant prevented commencement of
 20 the use or development (applicable to subsection (H)(2)(b) of this section) or commencement of
 21 construction (applicable to subsection (H)(2)(c)(1) of this section) within the original two (2) year time
 22 frame.

23 (2) An agency may also grant one (1) twelve (12) month extension if it determines that events
 24 beyond the control of the applicant prevented completion of the structure (applicable to subsection
 25 (H)(2)(c)(2) of this section) within the original two (2) year time frame.

26 (3) A request for extension shall state the reason why events beyond the control of the applicant
 27 warrant an extension.

28 (4) Approval or denial of a request for extension shall be considered an administrative decision.

29 I. Appeal Process.

30 Appeals will be handled pursuant to Section 40.510.020(H) for Type II applications or Section
 31 40.510.030~~(I(H))~~ for Type III applications.

32 J. Changes or Alterations to an Approved Action.

33 Any change or alteration to a development action approved by the Commission or responsible official pursuant
 34 to this rule shall be processed as new action, except that the responsible official may approve minor changes or
 35 alterations deemed to be consistent with the guidelines of this chapter and the findings and conclusions for the
 36 original action. If the responsible official approves a minor change, the Director shall notify all of the parties that
 37 would have standing to appeal the change, including the applicant, the Forest Service, the four (4) Indian tribal
 38 governments, the county planning department, and anyone who submitted comments during the comment period on
 39 the original land use application. The change itself (not the original administrative or examiner's decision) is
 40 ((would be)) subject to appeal under the same time frames applicable to the original administrative or examiner's
 41 decision.

1
2 **Section 8. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.060, and most recently
3 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:
4

5 **40.240.060 Expedited Development Review Process**

6 A. Development Eligible for Expedited Review.

7 The following development~~(s)~~ may be reviewed using the expedited development review process, provided
8 they comply with the resource protection and procedural guidelines contained in this section.

9 1. Except in Open Space, accessory structures between sixty (60) and two hundred (200) square feet in area
10 and ten (10) feet or less in height. Only one (1) accessory building per parcel may be allowed under this
11 guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory
12 buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights,
13 retaining walls, transportation facilities, or utility facilities.

14 2. Additions and covered decks for existing buildings provided the existing building is at least five hundred
15 (500) square feet in area and the addition or covered deck is no larger than two hundred (200) square feet in
16 area and no taller than the height of the existing building. Only one (1) addition and one (1) covered deck per
17 parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or
18 covered deck.

19 3. Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to six (6) feet in height
20 and less than or equal to one hundred (100) feet in length.

21 4. Wire-strand fences other than those allowed outright, provided the fence complies with Section
22 40.240.860(G) if it is inside deer and elk winter range as delineated in the Gorge Commission and Forest
23 Service natural resource ~~(inventories-)~~data or determined by an appropriate federal or state agency.

24 5. In the GMA, woven-wire fences for agricultural use that would enclose eighty (80) acres or less.

25 6. Decks that are:

26 a. Uncovered;

27 b. Attached and accessory to existing dwellings; and

28 c. Five hundred (500) square feet or less in area and thirty (30) inches or less in height above existing
29 grade.

30 7. Road closure gates.

31 8. Signs, other than those allowed outright.

32 9. Outdoor lights.

33 10. Air, weather, water and other similar research and monitoring facilities, provided the facilities are
34 attached to existing structures or are less than or equal to one hundred twenty (120) square feet in size and less
35 than or equal to twelve (12) feet in height.

36 11. Lot line adjustments in the GMA that would not result in the potential to create additional parcels
37 through subsequent land divisions, pursuant to Section 40.240.380, except all lot line adjustments for parcels
38 designated Open Space, Public Recreation, or Commercial Recreation shall be reviewed through the full
39 development review process.

- 1 12. Lot line adjustments in the SMA~~S~~ are subject to the SMA lot line adjustment standards of Section
2 40.240.380(B).
- 3 13. Removal/demolition of structures that are less than fifty (50) years old, including wells, septic tanks and
4 fuel tanks.
- 5 14. Decommission nonpaved roads, including ripping the road surface, barriers, and revegetation.
- 6 15. Trail reconstruction involving up to one thousand (1,000) feet of trail re-routing.
- 7 16. The following transportation facilities, provided they are not a part of larger construction or
8 reconstruction projects (which shall be reviewed as a whole):
- 9 a. New ~~((guardrails))~~traffic barriers and guardrail ends, other than those allowed outright, and new
10 wire-strand and woven-wire access control fences. This category does not include jersey barriers.
- 11 b. New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to one
12 hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height. This category
13 does not include signs.
- 14 c. Pave existing dirt and gravel roads; provided, that the activity does not increase the width of the road
15 or disturb the toe of adjacent embankments, slopes or cut banks.
- 16 d. New weather, air, traffic or other monitoring equipment attached to existing structures or that are
17 less than or equal to one hundred twenty (120) square feet in size and less than or equal to twelve (12) feet
18 in height.
- 19 17. New underground utility facilities located inside road, utility or railroad rights-of-way or easements that
20 have been disturbed in the past; provided, that (a) no ditch for linear facilities would be more than thirty-six
21 (36) inches wide, and (b) no excavation for nonlinear facilities would exceed twenty (20) cubic yards.
- 22 18. The following aboveground and overhead utility facilities:
- 23 a. Modify existing aboveground and overhead utility facilities or develop new aboveground and
24 overhead utility facilities including building and equipment foundations, poles, transformers, conduit,
25 fencing, pumps, valves, pipes, and water meters; provided, that the development would be less than or
26 equal to one hundred twenty (120) square feet in area and less than or equal to twelve (12) feet in height.
- 27 b. Replace existing aboveground and overhead utility facilities including building and equipment
28 foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters; provided, that
29 the replacement facilities would be in the same location as and no more than fifteen percent (15%) larger
30 than the physical size of the existing facilities.
- 31 c. New antennas and associated support structures necessary for public service on existing wireless
32 communication poles and towers other than those allowed outright; provided, that the size is the minimum
33 necessary to provide the service.
- 34 19. Replacing an existing mobile home in a mobile home space within a mobile home park; provided, that:
- 35 a. The mobile home to be replaced, the mobile home space and the mobile home park shall be existing,
36 lawful uses according to the definition of existing use or structure and Sections 40.240.170(A) through
37 (D);
- 38 b. The replacement mobile home shall be in the same location as the mobile home to be replaced;
- 39 c. The height of the replacement mobile home shall be no more than twenty percent (20%) greater than
40 the mobile home to be replaced; and

1 d. The mass and footprint of the replacement mobile home shall be no more than one hundred percent
 2 (100%) greater than a single-wide mobile home to be replaced or no more than twenty-five percent (25%)
 3 greater than a double-wide mobile home to be replaced.

4 20. Retaining walls accessory to existing dwellings less than or equal to two (2) feet in height and less than
 5 or equal to one hundred (100) feet in length.

6 21. In the SMA~~s~~, wind machines for frost control in conjunction with agricultural use.

7 22. Additions to existing buildings or structures that generate solar power for approved uses, provided that
 8 the panels and hardware are non-reflective black or dark earth tone colors and do not increase the overall roof
 9 height. This category does not include free-standing solar arrays, which are subject to full review as new
 10 structures under the guidelines in "Renewable Energy Production" (Part II, Chapter 7: General Policies and
 11 Guidelines).

12 (Amended: Ord. 2008-06-02)

13 B. Resource and Treaty Rights Protections Guidelines.

14 Proposed development~~((s))~~ reviewed using the expedited review process shall comply with the following
 15 resource protection guidelines:

16 1. Scenic Resources.

17 a. In the GMA, the scenic resource protection guidelines shall not apply to woven-wire fences for
 18 agricultural use that would enclose eighty (80) acres or less.

19 b. Except for signs, the colors of structures topographically visible from key viewing areas shall be
 20 dark earth-tones found at the specific site or the surrounding landscape. The specific colors ~~((or list of~~
 21 ~~acceptable colors))approved by the responsible official~~ shall be included as a condition of approval. This
 22 guideline shall not apply to additions ~~to existing buildings smaller in total area than the existing building,~~
 23 which may be the same color as the existing building~~((match the color of existing buildings))~~.

24 c. Except for signs, structures topographically visible from key viewing areas shall use low or
 25 nonreflective building materials, including roofing, gutters, vents, and chimneys.

26 d. ~~((Outdoor lights)) Any exterior lighting~~ shall be directed downward and sited, limited in intensity,
 27 hooded, and shielded~~((such that they are not highly visible from key viewing areas)) in a manner that~~
 28 prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the
 29 surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and
 30 hooding materials shall be composed of nonreflective, opaque materials.

31 e. Signs shall comply with Section 40.240.300.

32 f. Structures within one-half (1/2) mile of a key viewing area and topographically visible from the key
 33 viewing area shall be sited, screened and~~((or))~~ designed to achieve the applicable scenic standard (e.g.,
 34 visual subordinance, not visually evident).

35 2. Cultural Resources.

36 a. The expedited development review process shall only be used to review proposed development that
 37 does not require a reconnaissance survey or historic survey, pursuant to Section 40.240.820(A)(3)and (4).

38 b. The GMA guidelines that protect cultural resources and human remains discovered during
 39 construction Sections 40.240.820(F) and (G) shall be applied as conditions of approval for all
 40 development approved under the expedited development review process.

1 3. Recreation Resources. The development shall not detract from the use and enjoyment of established
 2 recreation sites on adjacent parcels.

3 4. Natural Resources.

4 a. Water Resources (Wetlands, Streams, ((Rivers)), Ponds, ((and))Lakes, and Riparian Areas). The
 5 development is outside water resources and their buffer zones((for wetlands, streams, rivers, ponds, and
 6 lakes)). This guideline shall not apply to lot line adjustments or development located inside road, utility or
 7 railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

8 b. Sensitive Wildlife and ((Sensitive))Rare Plants.

9 (1) The development meets one (1) of the following:

10 (a) The development is at least one thousand (1,000) feet from known Priority Habitats or
 11 sensitive wildlife ((areas or))sites (excluding sensitive aquatic species, and deer and elk winter
 12 range((, and turkey habitat))) and known ((sensitive))rare plants; or

13 (b) The development does not disturb the ground or is inside road, utility or railroad rights-
 14 of-way or easements or other areas that have been previously disturbed and regularly
 15 maintained; or

16 (c) For sensitive wildlife, the development is within one thousand (1,000) feet of known
 17 Priority Habitats or sensitive wildlife ((areas or))sites (excluding sensitive aquatic species, and
 18 deer and elk winter range((, and turkey habitat))), but an appropriate federal or state wildlife
 19 agency determines (1) the Priority Habitat or sensitive wildlife ((area or))site is not active, or
 20 (2) the proposed development would not compromise the integrity of the Priority Habitat or
 21 sensitive wildlife ((area or))site or occur during the time of the year when wildlife species are
 22 sensitive to disturbance;

23 (d) For ((sensitive))rare plants, the development is within one thousand (1,000) feet of
 24 known ((sensitive))rare plants, but the Washington Natural Heritage Program or a person with
 25 recognized expertise in botany or plant ecology hired by the applicant has determined that the
 26 development would be a least two hundred (200) feet from the ((sensitive))rare plants.

27 (2) Development eligible for expedited review shall be exempt from the field survey requirements
 28 for sensitive wildlife (Section 40.240.860(C)) or ((sensitive))rare plants (Section 40.240.870(C)).

29 (Amended: Ord. 2008-06-02)

30 C. Treaty Rights Protection Guidelines.

31 Proposed development((s)) reviewed using the expedited review process shall comply with the following treaty
 32 rights ((protection))guidelines:

33 1. Proposed development((s)) shall not affect or modify any treaty or other rights of any Indian tribe.

34 2. The expedited development review process shall cease and the proposed development shall be reviewed
 35 using the full development review process if a((#)) tribal government ((Indian tribe)) submits substantive
 36 written comments during the comment period that identify the treaty rights that exist in the project vicinity and
 37 explain how they would be affected or modified by the proposed development.

38 3. Except as provided in subsection (C)(2) of this section, the GMA and SMA treaty rights and consultation
 39 goals, policies and guidelines in Part IV, Chapter 3, ((Section IV of the Management Plan))Tribal Treaty
 40 Rights and Consultation shall not apply to proposed developments reviewed under the expedited review
 41 process.

42 D. Procedure for Expedited Review Process.

1 1. Applications.

- 2 a. Prior to initiating any use or development, which requires review and approval by the responsible
3 official or examiner ((Executive Director)), an application shall be completed pursuant to this section.
- 4 b. The responsible official shall accept and review the application pursuant to this section for
5 consistency with the appropriate guidelines.
- 6 c. Standard application forms shall be available from the department, and shall be provided to the
7 county offices for which this chapter is effective and the Forest Service.
- 8 d. Applications for uses eligible for expedited review shall include the information required for review
9 uses listed in Section 40.240.050. They shall also include elevation drawings if the proposed development
10 would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

11 2. Acceptance of Applications. Applications shall be accepted pursuant to Sections 40.510.02((4))0(A)
12 ((and)) through (C(B))) or 40.510.030 (A) through (C).

13 3. Notice of Development Review.

- 14 a. Within seven (7) days of the acceptance of an application, the responsible official shall issue notice
15 of a proposed development review. The notice shall provide the following information:

- 16 (1) The name of the applicant;
- 17 (2) The general and specific location of the subject property;
- 18
- 19 (3) A brief description of the proposed action;
- 20 (4) The deadline for rendering an administrative or examiner's decision; and
- 21 (5) The deadline for filing comments on the proposed action.

- 22 b. The notice shall state that the application and supporting documents are available for inspection at
23 the county during normal working hours.

- 24 c. The notice shall state the applicant must comply with all applicable local, state, and federal laws.

- 25 d. The notice and a fully complete application packet shall be sent((mailed)) to the Gorge Commission,
26 Forest Service, the four (4) Columbia River treaty tribes ((Indian tribal governments)),The notice shall be
27 sent to applicable county or city planning office(s), libraries and other agencies and interested parties that
28 request a notice or that the responsible official determines should be notified.

29

30 4. Comment Period. Any interested person or party shall submit written comments within ten (10) days
31 from the date a notice is sent. Comments received by a tribal government at any time during the expedited
32 review process shall be considered, to ensure that the proposed development or use does not affect or modify
33 the treaty or other rights of that tribe.

34 5. Written Administrative or Examiner's Decision.

- 35 a. In making an administrative or examiner's decision on a proposed use or development the
36 responsible official or examiner shall:

- 37 (1) Consult with the applicant and such agencies as the responsible official deems appropriate;

- (2) Consider information submitted by the applicant and all other relevant information available;
 - (3) Consider all comments submitted pursuant to Section 40.240.050; and
 - (4) Solicit and consider the comments of the Forest Service.

b. The responsible official shall approve a proposed use or development only if it is consistent with the standards applicable to the property that is subject to the proposed use or development and the purposes of the National Scenic Act ((of Section 6 and the purposes of the Act (Public Law 99-663), and this chapter)).

- (1) In approving a proposed development action, the responsible official or examiner may impose conditions as necessary to ensure consistency with the guidelines of this chapter.

(2) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The administrative or examiner's ((responsible official's)) decision shall include this requirement.

c. The responsible official or examiner shall issue an administrative or examiner's decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with standards applicable to the property that is subject to the proposed use or development and the purposes of the National Scenic Act ((the standards of Section 6 of the Management Plan and the purposes of the Act (Public Lands 99-663))) within the timeframes outlined in 40.510 ((thirty (30) days after acceptance of the application)).

d. The administrative or examiner's decision ~~((of the responsible official))~~ shall be ((final))dispositive unless a notice of appeal is filed in accordance with Section 40.510.02~~((4))~~0(H(E)) or 40.510.030(I). An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

6. Notice of Administrative or Examiner's Decision and Opportunity to Appeal.

a. The responsible official shall send a copy of an administrative or examiner's decision issued under the expedited review process to the four (4) ((Indian)) tribal governments, the Gorge Commission, the Forest Service, and landowners within two hundred (200) feet of the perimeter of the subject parcel.

b. Any person wishing to appeal an administrative or examiner's decision issued under the expedited review process shall do so pursuant to Section 40.240.050(I).

7. Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses in Section 40.240.050(H).

8. Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses in Section 40.240.050(J).

(Amended: Ord. 2006-05-04; Ord. 2006-08-21)

Section 9. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.070, and most recently amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

40.240.070 Emergency/Disaster Response Actions

A. General Guidelines.

1 1. Actions taken in response to an emergency/disaster event, as defined in Section 40.240.040, are allowed
2 in all GMA/SMA land use designations, subject to the notification requirements in subsection (B)(1) of this
3 section.

4 2. Following emergency/disaster response actions, best management practices (BMPs) to prevent
5 sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate
6 vegetation removal, excavation, ((and)) or grading. BMPs may include but are not limited to: use of straw
7 bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

8 3. Structures or development installed or erected for a temporary use (e.g., sandbags, check dams, plastic
9 sheeting, chain link fences, debris walls, etc.) shall be removed within one (1) year following an emergency
10 event. If it can be demonstrated that the continued use of these devices is necessary to protect life property,
11 public services or the environment, an extension of no more than two (2) years may be granted by the
12 responsible official or the Forest Service for federal agency actions.

13 4. The new exploration, development (extraction or excavation), and production of mineral resources, used
14 for commercial, private or public works projects, shall not be conducted as an emergency/disaster response
15 activity.

16 5. No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland,
17 stream, pond, lake or riparian area within the National Scenic Area ((NSA)) as a part of an
18 emergency/disaster response action. The only exception to this is for construction of a fire line during a
19 wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be
20 possible without further jeopardizing life or property.

21 (Amended: Ord. 2006-08-21)

22 B. Notification Requirements.

23 1. Actions taken in response to an emergency/disaster event, as defined, are allowed in all GMA and SMA
24 land use designations, subject to the following notification requirements:

25 a. Notification of an emergency/disaster response activity shall be submitted either within forty-eight
26 (48) hours of the commencement of a response action, or by the next business day following the start of
27 such an action, whichever is sooner. Notification shall be submitted by the party conducting an
28 emergency/disaster response activity or their representatives. In the case of multiple responding parties,
29 the first party to respond shall provide the required notification, unless, upon mutual agreement of
30 responding parties, another responder elects to assume this responsibility.

31 b. Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by
32 telephone, a hard copy of the notification shall be submitted by mail or in person within seven (7) days.

33 c. Notification shall be furnished to the responsible official or the Forest Service for federal agency
34 actions. If the Forest Service is the action agency, it shall provide notice to the Gorge Commission.

35 d. At a minimum, the following information shall be required at the time of notification:

36 (1) Nature of emergency/disaster event;

37 (2) Description of emergency/disaster response activities and magnitude of response actions to be
38 taken, if applicable (such as extent of earth movement, erection of structures, etc.);

39 (3) Location of emergency/disaster response activities;

40 (4) Estimated start and duration of emergency/disaster response activities; and

41 (5) Contact person and phone number for the parties conducting emergency/disaster response
42 actions.

- 1 e. Repair and maintenance of an existing serviceable structure to its previously authorized and
2 undamaged condition are not subject to the above referenced notification requirements.
- 3 2. Upon notification of an emergency/disaster response action, the responsible official, or Forest Service
4 shall, as soon as possible:
- 5 a. Review its natural resource ((inventory))data and notify the contact person for the
6 emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are
7 within or adjacent to the response area or that may be adversely affected by response activities;
- 8 b. Notify the Washington Department of Fish and Wildlife of all noticed emergency/disaster response
9 actions, to provide that agency an opportunity to consult with responding agencies during the event; and
- 10 c. Notify the Forest Service, the ((Office))Department of Washington Office of Archaeology and
11 Historic Preservation, and the tribal governments of all emergency/disaster response activities. The Forest
12 Service will review their cultural resource ((inventory))data and notify the contact person for the
13 emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their
14 buffers, that are within, or adjacent to, emergency/disaster response areas.
- 15 3. Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a
16 resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site
17 advice to minimize impacts to resources from emergency/disaster response actions.
- 18 (Amended: Ord. 2006-08-21)
- 19 C. Post-Emergency/Disaster Response Development Review Application Requirements.
- 20 1. Within thirty (30) days following notification, a post-emergency/disaster response application shall be
21 submitted by the party conducting the response action to the responsible official, or Forest Service for federal
22 agency actions. In the case of an event with multiple responding parties, the party providing initial notification
23 as required herein shall submit the application. An exception to this may occur if another responding party, by
24 mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal
25 deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall
26 not exceed thirty (30) days in duration~~((and not more than two (2) extensions shall be granted))~~.
- 27 2. Post-emergency/disaster response applications shall only address development activities conducted
28 during an emergency/disaster response. Applications shall specify if development placed during an
29 emergency/disaster event is permanent or temporary. The terms "development activities" and "development"
30 include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants
31 shall be responsible for operations under their control and that of other responders, upon mutual agreement.
32 Responders not agreeing to have another responder address their actions shall be responsible to submit an
33 application for those actions.
- 34 3. Emergency/disaster response actions not involving structural development or ground disturbance with
35 mechanized equipment are exempt from these requirements, except for those actions within five hundred (500)
36 feet of a known cultural resource (as determined in the notification process).
- 37 4. Applications shall include the following information:
- 38 a. Applicant's name and address.
- 39 b. Location of emergency/disaster response.
- 40 c. A written description of the emergency/disaster response, including any structures erected,
41 excavation or other grading activities, or vegetation removal.
- 42 d. A map of the project area drawn to scale, at a scale of one inch equals two hundred (200) feet
43 (1:2,400) or a scale providing greater detail. The map shall include:

- 1 (1) North arrow and scale;
- 2 (2) Boundaries, dimensions and size of subject parcel(s);
- 3 (3) Bodies of water, watercourses, and significant landforms;
- 4 (4) Existing roads and structures; and
- 5 (5) New structures placed and any vegetation removal, excavation or grading resulting from the
6 response actions.

7 e. An exception to the scale requirements in subsection (C)(4)(d) of this section may be granted for an
8 event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire
9 response action area shall be provided. In addition, a map of one (1) inch equals two hundred (200) feet
10 (1:2,400) or a scale providing greater detail shall be provided that shows a section of the response area
11 exemplifying the specific actions taken.

12 5. Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum
13 the following:

- 14 a. Notice of the application to landowners within two hundred (200) feet of the perimeter of the subject
15 parcel, the Forest Service, Gorge Commission, the four ((tribal governments))Columbia River treaty
16 tribes, and interested parties;
- 17 b. A written administrative or examiner's decision with findings of fact and conclusions of law; and
- 18 c. An opportunity to request a hearing.

19 D. Post-Emergency/Disaster Response Development Review.

20 Actions taken in all land use designations within the GMA or SMA that are in response to an
21 emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.

22 1. Scenic Resources.

23 a. Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are
24 not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape
25 setting as ((seen))visible from key viewing areas to the greatest extent practicable, except for actions
26 located in areas exempted from visual subordinance requirements in Section 40.240.800(C). In the SMAs,
27 such actions shall meet the scenic standard to the greatest extent practicable.

28 b. Vegetation shall be used to screen or cover road cuts, structural development, landform alteration,
29 and areas denuded of vegetation, as a result of emergency/disaster response actions.

30 c. Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated
31 with native plant species, or species commonly found within the applicable landscape setting, to restore
32 the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur
33 as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the
34 one-year requirement may be granted upon demonstration of just cause, with an extension up to one (1)
35 year.

36 d. The painting, staining or use of other materials on new structural development shall be used to
37 ensure that the structures are nonreflective, or of low reflectivity, and visually subordinate in their
38 landscape setting as ((seen))visible from key viewing areas, unless the structure is fully screened from key
39 viewing areas by existing topographic features.

40 e. Additions to existing structures, resulting from an emergency/disaster response action, which are
41 smaller in total height, bulk or area than the existing structures may be the same color as the existing

1 development. Additions larger than the existing development shall be visually subordinate in their
2 landscape setting as ((seen))visible from key viewing areas to the greatest extent practicable.

3 f. In the GMA, spoil materials associated with grading, excavation and slide debris removal activities
4 in relation to an emergency/disaster response action shall comply with the following standards:

5 (1) The spoil materials shall either be:

6 (a) Removed from the ((NSA)) National Scenic Area;

7 (b) Deposited at a site within the ((NSA))National Scenic Area permitted by the responsible
8 official or examiner ((an agency administering a Scenic Area land use ordinance)); or

9 (c) Recontoured, to the greatest extent practicable, to retain the natural topography, or a
10 topography which emulates that of the surrounding landscape.

11 (2) The responsible official or examiner shall decide whether an applicant removes the spoil
12 materials, deposits the spoil materials, or (re)contours the spoils materials.

13 (3) The responsible official or examiner shall select the action in subsection (D)(1)(f)(1) of this
14 section that, to the greatest extent practicable, best complies with the policies and guidelines in the
15 Management Plan that protect scenic, cultural, recreation, and natural resources.

16 (4) Disposal sites created pursuant to subsection (D)(1)(f)(1)(b) of this section shall only be used
17 for spoil materials associated with an emergency/disaster response action. Spoil materials from routine
18 road maintenance activities shall not be deposited at these sites.

19 g. In the SMAs, spoil materials associated with grading, excavation and slide debris removal activities
20 in relation to an emergency/disaster response action shall comply with the following standards:

21 (1) The spoil materials shall either be:

22 (a) Removed from the ((NSA))National Scenic Area; or

23 (b) Deposited at a site within the ((NSA))National Scenic Area permitted by ((an)) the
24 responsible official or examiner((agency administering a Scenic Area land use ordinance))
25)within two (2) years of the emergency.

26 (2) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet
27 the scenic standard.

28 (3) All grading (i.e., recontouring) shall be completed within thirty (30) days after the spoils
29 materials are removed.

30 (4) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the
31 maximum extent practicable.

32 (5) All revegetation shall take place within one (1) year of the date an applicant completes the
33 grading.

34 (6) This provision shall take effect on August 3, 2006, or approval of a disposal site, whichever
35 comes first.

36 2. Cultural Resources and Treaty Rights.

37 a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect
38 cultural resources.

1 b. Emergency/disaster response actions shall not affect or modify tribal treaty rights.

2 c((b)). The Forest Service shall determine if a reconnaissance survey or historic survey is necessary
3 within three (3) days after receiving notice that a post-emergency land use application has been received
4 by the responsible official.

5 (1) Reconnaissance surveys shall be conducted by the Forest Service and comply with the standards
6 in Section 40.240.820(A)(3)(d). Reconnaissance survey reports shall comply with the standards in
7 Section 40.240.820(A)(3)(e).

8 (2) Historic surveys shall be conducted by the Forest Service and shall describe any adverse effects
9 to historic resources resulting from an emergency/disaster response action. Historic surveys shall
10 document the location, form, style, integrity, and physical condition of historic buildings and
11 structures. Such surveys shall also include original photographs, if available, and maps, and should use
12 archival research, blueprints, and drawings as necessary.

13 d((e)). Following the submittal of a post-emergency land use application, in addition to other public
14 notice requirements that may exist, the county shall send a copy of all comments to the Gorge
15 Commission and the tribal governments shall be notified by the responsible official when (1) a
16 reconnaissance survey is required, or (2) cultural resources that are precontact or otherwise associated with
17 Native Americans exist in the project area. Notices shall include a site plan. At a minimum, notice shall
18 be sent via email where addresses are available. If a tribal government requests notice in another from, the
19 responsible official shall comply with that request. Tribal governments shall have ((fifteen-))thirty
20 ((30((15))) calendar days from the date a notice is sent to submit written comments. The tribal government
21 may choose to include ((Written)) comments that((should)) describe the nature and extent of any cultural
22 resources that exist in the project area or treaty rights that exist in the project area and how they have been
23 affected, and identify individuals with specific knowledge about them. A copy of all comments shall be
24 sent to the Gorge Commission.

25 e((d)). When written comments are submitted in compliance with subsection (D)(2)(c) of this section,
26 the project applicant shall offer to meet within five (5) calendar days with the interested persons. The five
27 (5) day consultation period may be extended upon agreement between the project applicant and the
28 interested persons. A report shall be prepared by the responsible official following the consultation
29 meeting. Consultation meetings and reports shall comply with the standards in Section 40.240.820(B)(1)
30 and Sections 40.240.180(A) and (D).

31 f((e)). If cultural resources are discovered within the area disturbed by emergency response actions, the
32 project applicant shall have a qualified professional conduct a survey to gather enough information to
33 evaluate the significance of the cultural resources and what effects the action had on such resources. The
34 survey and evaluation shall be documented in a report that generally follows the standards in Sections
35 40.240.820(A)(1) and (2), and Section 40.240.820(C)(1).

36 g((f)). A mitigation plan shall be prepared by the project applicant if the affected cultural resources are
37 significant. The mitigation plan shall be prepared according to the information, consultation, and report
38 guidelines in Section 40.240.820(E).

39 h((g)). ((The responsible official shall submit a))A copy of all reconnaissance and historic survey
40 reports and treaty rights protection plans shall be submitted to the SHPO and the tribal governments.
41 Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from
42 emergency/disaster response actions. The SHPO and tribal governments shall have fifteen (15) calendar
43 days from the date a survey report is ((mailed-))sent to submit written comments. ((to the Executive
44 Director. The responsible official shall record and address a))All written comments shall be recorded and
45 addressed in the ((final-))administrative or examiner's decision.

46 i((h)). The responsible official or examiner shall make a ((final-))decision on whether the
47 emergency/disaster response actions are consistent with the applicable cultural resource goals, policies,
48 and guidelines. If the ((final-))decision contradicts the comments submitted by the SHPO, or those

1 submitted by a tribal government regarding treaty rights, the responsible official or examiner shall justify
 2 how the opposing conclusion was reached.

3 j((i.)) The cultural resource protection process may conclude when it has been determined that tribal
 4 treaty rights have not been affected and one of the following conditions exists:

5 (1) The emergency/disaster response action does not require a reconnaissance or historic survey, or
 6 a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area,
 7 and no substantiated concerns were voiced by interested persons within fifteen (15) calendar days of
 8 the date that a notice was sent ((mailed)).

9 (2) The emergency/disaster response action avoided cultural resources that exist in the project area.

10 (3) Adequate mitigation measures to affected cultural resources have been developed and will be
 11 implemented.

12 (4) A historic survey demonstrates that emergency/disaster response actions, and associated
 13 development, had no effect on historic buildings or structures because:

14 (a) The SHPO concluded that the historic buildings or structures are clearly not eligible, as
 15 determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR
 16 60.4); or

17 (b) The emergency/disaster response actions did not compromise the historic or architectural
 18 character of the affected buildings or structures, or compromise features of the site that are
 19 important in defining the overall historic character of the affected buildings or structures, as
 20 determined by the guidelines and standards in *The Secretary of the Interior's Standards for*
21 Rehabilitation (U.S. Department of the Interior, 1990) and *The Secretary of the Interior's*
22 Standards for Historic Preservation Projects (U.S. Department of the Interior, 1983).

23 3. Natural Resources.

24 a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect
 25 natural resources.

26 b. Buffer zones for ((wetlands, streams, ponds, riparian areas,))water resources, Priority Habitats or
 27 sensitive wildlife sites((or areas)), and sites containing rare plants shall be the same as those established in
 28 Sections 40.240.840, ((40.240.850(F))), 40.240.860(F)(4), 40.240.870(G), and 40.240.880(B) and (C).

29 c. ((Wetlands, Streams, Ponds, Lakes, Riparian Areas,))Water Resources

30 (1) Emergency/disaster response actions occurring within a water resource buffer zone ((of
 31 wetlands, streams, pond, lakes or riparian areas)) shall be reviewed by the Washington Department of
 32 Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will
 33 help determine if emergency/disaster response actions have affected or have a potential to affect these
 34 aquatic areas or their bigger zones. ((State biologists shall respond within fifteen (15) days of the date
the application is mailed.))

36 (2) When emergency/disaster response activities occur within ((wetlands, streams, ponds, lakes,
 37 riparian areas, or the))water resources or their buffer zones((of these areas)), the applicant shall
 38 demonstrate the following:

39 (a) All reasonable measures have been applied to ensure that the response actions have
 40 resulted in the minimum feasible alteration or destruction of the functions, existing contours,
 41 vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or
 42 riparian areas.

(b) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(3) Impacts to ~~((wetlands, streams, ponds, lakes and riparian areas,))~~water resources and their buffers, will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(4) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response actions had minor effects on the (~~aquatic area~~)water resource or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in conclusion with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, they(~~Executive Director~~) shall be incorporated(~~them~~) into the (~~final order~~)-administrative or examiner's decision and the aquatic area protection process may conclude.

(5) Unless addressed through subsection (D)(3)(c)(4) of this section, mitigation and restoration efforts shall be delineated in a ~~((rehabilitation plan))~~ Water Resources Mitigation Plan.

~~((Rehabilitation)) Water Resources Mitigation ((p))~~Plans shall satisfy the standards in Sections 40.240.8~~4((5))~~0(K((G)(1) and (2). ~~Rehabilitation)) Water Resources Mitigation ((p))~~Plans shall also satisfy the following:

(a) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

(b) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

(c) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

d. Wildlife Habitat.

(1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a (sensitive wildlife area or) Priority Habitat or sensitive wildlife site shall be reviewed by the Washington Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a (sensitive wildlife area or) Priority Habitat or sensitive wildlife site.

(2) Site plans for emergency/disaster response sites shall be submitted by the responsible official
((Executive Director)) to the Washington Department of Fish and Wildlife for review as prescribed in
Sections 40.240.860(E)(1) and (2). ((The wildlife agency shall respond within fifteen (15) days of the
date the application is mailed.))

(3) The wildlife protection process may terminate if the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines (a) the Priority Habitat or sensitive wildlife (area or) site was not active, or (b) the emergency/disaster response did not compromise the integrity of the Priority Habitat or sensitive wildlife (area or) site or occurred at a time when wildlife species are not sensitive to disturbance.

(4) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response activities had minor effects on the ~~(wildlife area or~~)Priority Habitat or sensitive wildlife site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available)

1 in consultation with the state wildlife biologist, shall visit the site in order to make this determination.
2 If the project applicant accepts these recommendations, they ((responsible official)) shall be
3 incorporated ((them)) into the ((final))administrative or examiner's decision and the wildlife
4 protection process may conclude.

5 (5) If the responsible official, in consultation with the Washington Department of Fish and Wildlife,
6 determines that the emergency/disaster response activities had adverse effect on a Priority Habitat or
7 sensitive wildlife ((area or)) site, the project applicant shall prepare a wildlife ((management))
8 mitigation plan. Wildlife ((management))mitigation plans shall comply with standards in Section
9 40.240.860(F). Upon completion of the wildlife ((management))mitigation plan((, the responsible
10 official shall)):

11 (a) The responsible official shall submit a copy of the wildlife ((management))mitigation
12 plan to the Washington Department of Fish and Wildlife, for review. The Washington
13 Department of Fish and Wildlife will have fifteen (15) days from the date that a plan is ((mailed
14))sent to submit written comments to the responsible official.

15 (b) ((Record))A^(a)ny written comments submitted by the Washington Department of Fish
16 and Wildlife shall be recorded, in the administrative or examiner's decision ((its development
17 review order)). Based on these comments, the responsible official or examiner((Executive
18 Director)) shall ((make a final decision on))determine whether the proposed use would be
19 consistent with the wildlife policies and guidelines. If the ((final))decision contradicts the
20 comments submitted by the Washington Department of Fish and Wildlife, the responsible
21 official or examiner((Executive Director)) shall justify how the opposing conclusion was
22 reached.

23 (c) Require the project applicant to revise the Wildlife ((Management))Mitigation Plan as
24 necessary to ensure that the proposed use would not adversely affect a Priority Habitat or
25 sensitive wildlife ((area or))site.

26 e. Deer and Elk Winter Range. Any fencing permanently erected within deer and elk winter range, as a
27 result of an emergency/disaster response, shall comply with the standards in Section 40.240.860(G).

28 f. Rare Plants.

29 (1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a rare
30 ((sensitive))-plant shall be reviewed by the Washington Natural Heritage Program. State heritage staff
31 will help determine if emergency/disaster response actions have occurred within the buffer zone of a
32 rare plant.

33 (2) Site plans for emergency/disaster response sites shall be submitted to the Washington Natural
34 Heritage Program by the responsible official. State natural heritage staff will, within fifteen (15) days
35 from the date the application is ((mailed)) sent, identify the location of the affected plants and delineate
36 a two hundred (200) foot buffer zone on the applicant's site plan.

37 (3) The rare plant protection process may conclude if the responsible official, in consultation with
38 the state natural heritage program, determines that emergency/disaster response activities occurred
39 outside of a rare plant buffer zone.

40 (4) If the responsible official, in consultation with the state natural heritage program, determines
41 that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer
42 zone, a letter shall be sent to the project applicant that describes the effects and measures that need to
43 be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources
44 advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to
45 make this determination. If the project applicant accepts these recommendations, they ((Executive
46 Director))shall be incorporated ((them)) into the ((final))administrative or examiner's decision
47 ((order)) and the rare plant protection process may conclude.

1 (5) If emergency/disaster response activities occurred within a rare plant buffer zone that had
 2 adverse ~~((a))e~~ effects on rare plants or their buffer zone, the project applicant shall prepare a ~~((protection~~
 3 ~~and rehabilitation))Rare Plant Mitigation ((p))P~~lan that meets the standards in Section 40.240.870(F).

4 (6) The responsible official shall submit a copy of all ~~((protection and rehabilitation))Rare Plant~~
 5 ~~Mitigation ((p))Plans~~ to the state heritage program for review. The state natural heritage program will
 6 have fifteen (15) days from the date the ~~((protection and rehabilitation))Rare Plant Mitigation~~
 7 ~~((p))P~~lan is ~~((mailed))sent~~ to submit written comments to the responsible official.

8 (7) ~~((The responsible official shall record a))A~~ny written comments submitted by the state natural
 9 heritage program ~~shall be recorded in the administrative or examiner's decision ((in its development-~~
 10 ~~review order))~~. Based on these comments, the responsible official or examiner shall make a ~~((final))~~
 11 decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If
 12 the ~~((final))~~decision contradicts the comments submitted by the state natural heritage program, the
 13 responsible official or examiner shall justify how the opposing conclusion was reached.

14 (8) The responsible official or examiner shall require the project applicant to revise the ~~((protection~~
 15 ~~and rehabilitation))Rare Plant Mitigation ((p))P~~lan as necessary to ensure that the proposed use would
 16 not adversely affect a rare plant site.

17 4. Recreational Resources.

18 a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect
 19 recreational resources.

20 b. Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation
 21 resources caused by emergency/disaster response activities to the maximum extent practicable.

22 (Amended: Ord. 2008-06-02)

23 E. Post-Emergency Construction.

24 Placement of structures necessary for continued public safety and the protection of private property and essential
 25 public services damaged during an emergency/disaster event is allowed in all land use designations in accordance
 26 with Sections 40.240.050, 40.240.100 through 40.240.180 (as applicable), and 40.240.800 through 40.240.900. This
 27 includes replacement of temporary structures erected during such events with permanent structures performing an
 28 identical or related function. Land use applications shall be submitted within twelve (12) months following an
 29 emergency/disaster event.

30 (Amended: Ord. 2006-05-04)

31
 32 **Section 10. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.100, and most recently
 33 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

35 **ARTICLE II. GENERAL GUIDELINES**

36 **40.240.100 Exempt Land Uses and Activities**

37 A. This chapter shall not apply to:

38 1. Any treaty or other rights of any Indian tribes.

39 2. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian
 40 tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the
 41 Interior for the benefit of Indian tribes or of individual members of Indian tribes, shall be exempt from
 42 regulation. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as ((“))in

1 lieu(~~(2)~~) or treaty fishing access sites pursuant to Public Law 79-14 and Public Law 100-581 before or after the
 2 effective date of the Management Plan. For those (~~(2)~~)in lieu or treaty fishing access(~~(2)~~) sites chosen after the
 3 effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps
 4 of Engineers.

5 3. Rights to surface or groundwater.

6 4. Water transportation activities on the Columbia River or its tributaries. The term “activities” includes
 7 those facilities necessary for navigation.

8 5. The operation, maintenance and modification of existing transmission facilities of the Bonneville Power
 9 Administration.

10 6. Laws, rules or regulations pertaining to hunting or fishing.

11 7. The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to
 12 federal law, except for the off-site disposal of excavation material.

13 8. In the GMA, the rights and responsibilities of nonfederal timber landowners under the Washington Forest
 14 Practices Act, or under county regulations that supersede those acts.

15 B. Neither the Forest Service nor the Gorge Commission may establish any buffer zones or protective perimeters
 16 outside the boundaries of the Scenic Area.

17 (Amended: Ord. 2006-05-04)

19 **Section 11. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.110, and most recently
 20 amended by Sec. 3 of Ord. 2014-11-02 are each hereby amended as follows:

22 **40.240.110 Prohibited Land Uses and Activities**

23 The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area
 24 in Clark County:

25 A. Solid waste disposal sites or sanitary landfills within the SMAs.

26 B. New industrial development in the National Scenic Area outside of the urban areas.

27 C. Collective gardens as defined in Section 40.100.070.

28 (Amended: Ord. 2006-05-04; Ord. 2013-07-08; Ord. 2014-11-02)

30 **Section 12. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.120, and most recently
 31 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

33 **40.240.120 Uses Allowed Outright**

34 A. All Land Use Designations Except Open Space.

35 1. The following uses may be allowed without review in all GMA and SMA land use designations, except
 36 GMA and SMA Open Space:

1 a. In the GMA, agricultural uses except new cultivation. Any operation that would cultivate land that
2 has not been cultivated, or has lain idle, for more than five (5) years shall be considered new cultivation.
3 For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

4 b. In the SMAs, agricultural uses within previously disturbed and regularly worked fields or areas.

5 c. Forest practices in the GMA that do not violate conditions of approval for other approved uses and
6 developments.

7 d. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings,
8 agricultural structures, trails, roads, railroads, and utility facilities.

9 e. Accessory structures sixty (60) square feet or less in area and ten (10) feet or less in height, unless
10 within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include
11 signs, fences, outdoor lights, retaining walls, flagpoles, roads, transportation facilities, or utility facilities.

12 f. Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or
13 equal to five hundred (500) feet in length and less than or equal to ten (10) feet in height that are accessory
14 to an existing dwelling; provided, that woven-wire fences (posts and wire) are brown or black if visible
15 from key viewing areas. Height is measured from the ground to the top wire.

16 g. Wire-strand fences less than or equal to forty-eight (48) inches in height that are outside deer and elk
17 winter range as delineated in the Gorge Commission~~and~~ Forest Service natural resource ((inventories-))
18 data or determined by an appropriate federal or state agency. Height is measured from the ground to the
19 top wire. This category does not include fences associated with transportation facilities or utility facilities.

20 h. The following transportation facilities:

21 (1) Replace existing safety or protective structures, including but not limited to guardrails, access
22 control fences and gates, barriers, energy attenuators, safety cables, rockfall structures and traffic
23 signals and controllers; provided, that the replacement structures are (a) the same location and size as
24 the existing structures, and (b) the same building materials as the existing structures, or building
25 materials that are dark brown with a flat, nonreflective finish, or building materials consistent with a
26 scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA
27 policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel
28 Corridors.” (Part I, Chapter 1: Scenic Resources).

29 (2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided,
30 that the replacement structures are (a) the same location and size as the existing structures, and (b) the
31 same building materials as the existing structures, or building materials that are dark brown with a flat,
32 nonreflective finish, or building materials consistent with a scenic highway corridor strategy for
33 Washington State Route 14 prepared according to the GMA policies in the section of the Scenic
34 Resources chapter of the Management Plan titled “Scenic Travel Corridors.” (Part I, Chapter 1: Scenic
Resources).

36 (3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement
37 markings and striping.

38 (4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided,
39 that (a) the signs comply with the Manual on Uniform Traffic Control Devices (2012 or most recent
version), and (b) the support structures and backs of all signs are dark brown with a flat, nonreflective
41 finish. This category does not include specific service signs; destination and distance signs; variable
42 message signs; or signs that bridge or are cantilevered over the road surface.

43 (5) Extensions of existing guardrails or traffic barriers less than or equal to fifty (50) feet in length
44 and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (a)
45 located inside rights-of-way that have been disturbed in the past, and (b) constructed of materials that

1 match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with
 2 a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA
 3 policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel
 4 Corridors.” [\(Part I, Chapter 1: Scenic Resources\)](#).

5 (6) New ((guardrails-))traffic barriers and guardrail ends; provided, that the structures are (a)
 6 located inside rights-of-way that have been disturbed in the past, and (b) are constructed of natural
 7 wood, weathering steel (e.g., Corten), or materials consistent with a scenic highway corridor strategy
 8 for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic
 9 Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [\(Part I, Chapter 1: Scenic](#)
 10 [Resources\)](#). This category does not include jersey barriers.

11 (7) In the GMA, replacement ((and/))or ((expand))expansion of existing culverts; provided, that the
 12 entity or person owning or operating the culvert shall obtain all necessary federal and state permits that
 13 protect water quality and fish and wildlife habitat before construction.

14 (8) In the SMAs, replacement ((and/))or ((expand))expansion of existing culverts for ephemeral
 15 streams or ditches; provided, that the visible ends of culverts shall be dark and nonreflective. The
 16 entity or person owning or operating the culvert shall obtain all necessary federal and state permits that
 17 protect water quality and fish and wildlife habitat before construction.

18 (9) ((Resurface or overlay))Maintenance of existing railroad track and paved roads; provided, that
 19 the activity does not:

- 20 (a) Increase the width of a road or railroad; or
- 21 (b) Disturb the toe of adjacent embankments, slopes or cut banks; ((or))
- 22 ((e) — Change existing structures or add new structures-))

23 (10) Apply dust abatement products to nonpaved road surfaces.

24 (11) Grade and gravel existing road shoulders; provided, that the activity does not:

- 25 (a) Increase the width of a road; or
- 26 (b) Disturb the toe of adjacent embankments, slopes or cut banks; or
- 27 ((e) — Change existing structures or add new structures-))

28 (12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to
 29 thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This
 30 category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations,
 31 abutments).

32 i. The following underground utility facilities:

33 (1) Replace or modify existing underground utility facilities located inside road, utility or railroad
 34 rights-of-way or easements that have been disturbed in the past or co-locate new underground utility
 35 facilities with existing underground facilities located inside road, utility or railroad rights-of-way or
 36 easements that have been disturbed in the past; provided, that no excavation would extend beyond the
 37 depth and extent of the original excavation.

38 (2) Replace or modify existing underground utility facilities located inside road, utility or railroad
 39 rights-of-way or easements that have been disturbed in the past or co-locate new underground utility
 40 facilities with existing underground facilities located inside road, utility railroad rights-of-way or
 41 easements that have been disturbed in the past; provided, that:

- (a) No excavation would extend more than twelve (12) inches beyond the depth and extent of the original excavation;
 - (b) No ditch for linear facilities would be more than twenty-four (24) inches wide;
 - (c) No excavation for nonlinear facilities would exceed ten (10) cubic yards; and
 - (d) No recorded archaeological site is located within five hundred (500) feet of the development. To comply with (d).

~~((—To comply with subsection (A)(1)(i)(2)(d) of this section))~~, the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.

- j. The following aboveground and overhead utility facilities, subject to Chapter 12.20A CCC for areas within, on, along, over, under or through Clark County public right-of-way:

- (1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (a) the same location and size as the existing facilities, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* or a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [\(Part I, Chapter 1: Scenic Resources\)](#).

- (2) Replace existing utility poles; provided, that the replacement poles are:

- (a) Located within five (5) feet of the original poles;
 - (b) No more than five (5) feet taller and six (6) inches wider than the original poles; and
 - (c) Constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, nonreflective finish.

- (3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.

- k. Flagpoles that are accessory to the principal building on a parcel; provided, that the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.

1. The following signs:

- (1) Election signs. Removal must be accomplished within thirty (30) days of election day.
 - (2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.
 - (3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices (2012 or most recent version). Removal must be accomplished within thirty (30) days of project completion.
 - (4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premises, or signs prohibiting or otherwise controlling fishing

1 or hunting; provided, that such signs are not greater than six (6) square feet in the GMA and two (2)
2 square feet in the SMAs.

3 (5) Temporary signs advertising civil, social, or political gatherings and activities; provided, that
4 such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30)
5 days of the close of the event.

6 (6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no
7 larger than that required to convey the intended message.

8 (7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the
9 outside walls of buildings (not on roofs or marquees).

10 m. In the GMA, wind machines for frost control in conjunction with an agricultural use.

11 (Amended: Ord. 2008-06-02)

12 B. GMA and SMA Open Space.

13 1. The following uses may be allowed without review in GMA and SMA Open Space:

14 a. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings,
15 agricultural structures, trails, roads, railroads, and utility facilities. This does not include trail, road, and
16 railroad expansions.

17 b. The following transportation facilities:

18 (1) Replace existing safety or protective structures, including guardrails, access control fences and
19 gates, barriers, energy attenuators, safety cables, and traffic signals and controllers; provided, that the
20 replacement structures are (a) the same location and size as the existing structures, and (b) the same
21 building materials as the existing structures, or building materials that are dark brown with a flat,
22 nonreflective finish, or building materials consistent with the *Historic Columbia River Highway*
23 *Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared
24 according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan
25 titled “Scenic Travel Corridors.” (Part I, Chapter 1: Scenic Resources).

26 (2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided,
27 that the replacement structures are (a) the same location and size as the existing structures, and (b) the
28 same building materials as the existing structures, or building materials that are dark brown with a flat,
29 nonreflective finish, or building materials consistent with the *Historic Columbia River Highway*
30 *Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared
31 according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan
32 titled “Scenic Travel Corridors.” (Part I, Chapter 1: Scenic Resources)..

33 (3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement
34 markings and striping.

35 (4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided,
36 that (a) the signs comply with the Manual on Uniform Traffic Control Devices (2012 or most recent
37 version), and (b) the support structures and backs of all signs are dark brown with a flat, nonreflective
38 finish. This category does not include specific service signs; destination and distance signs; variable
39 message signs; or signs that bridge or are cantilevered over the road surface.

40 (5) Extensions of existing guardrails or traffic barriers less than or equal to fifty (50) feet in length
41 and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (1)
42 located inside rights-of-way that have been disturbed in the past, and (2) constructed of materials that
43 match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with
44 the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or

1 Washington State Route 14 prepared according to the GMA policies in the section of the Scenic
 2 Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [\(Part I, Chapter 1: Scenic](#)
 3 [Resources\)..](#)

4 (6) New ~~((guardrails))~~traffic barriers and guardrail ends, provided the structures are (a) located
 5 inside rights-of-way that have been disturbed in the past, and (b) constructed of natural wood,
 6 weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway*
 7 *Master Plan* or a scenic highway corridor for Washington State Route 14 prepared according to the
 8 GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic
 9 Travel Corridors.” ~~This category does not include jersey barriers.~~

10 (7) In the GMA, replacement ((and/)) or ~~((expand))~~expansion of existing culverts; provided, that the
 11 entity or person owning or operating the culvert shall obtain all necessary federal and state permits that
 12 protect water quality and fish and wildlife habitat before construction.

13 (8) In the SMAs, replacement ((and/)) or ~~((expand))~~expansion of existing culverts for ephemeral
 14 streams or ditches; provided, that the visible ends of culverts shall be dark and nonreflective.

15 (9) ~~((Resurface or overlay))~~Maintenance of existing railroad track and paved roads; provided, that
 16 the activity does not:

17 (a) Increase the width of a road or railroad, or:

18 (b) Disturb the toe of adjacent embankments, slopes or cut banks.~~((; or))~~

19 ~~((e))—Change existing structures or add new structures.))~~

20 (10) Apply dust abatement products to nonpaved road surfaces.

21 (11) Grade and gravel existing road shoulders; provided, that the activity does not:

22 (a) Increase the width of a road or:

23 (b) Disturb the toe of adjacent embankments, slopes or cut banks.~~((; or))~~

24 ~~((e))—Change existing structures or add new structures.))~~

25 (12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to
 26 thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This
 27 category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations,
 28 abutments).

29 c. The following underground utility facilities:

30 (1) Replace or modify existing underground utility facilities located inside road, utility or railroad
 31 rights-of-way or easements that have been disturbed in the past or co-locate new underground utility
 32 facilities with existing underground facilities located inside road, utility or railroad rights-of-way or
 33 easements that have been disturbed in the past; provided, that no excavation would extend beyond the
 34 depth and extent of the original excavation.

35 (2) Replace or modify existing underground utility facilities located inside road, utility or railroad
 36 rights-of-way or easements that have been disturbed in the past or co-locate new underground utility
 37 facilities with existing underground facilities located inside road, utility or railroad rights-of-way or
 38 easements that have been disturbed in the past; provided, that:

39 (a) No excavation would extend more than twelve (12) inches beyond the depth and extent of
 40 the original excavation;

- (b) No ditch for linear facilities would be more than twenty-four (24) inches wide;
 - (c) No excavation for nonlinear facilities would exceed ten (10) cubic yards; and
 - (d) No recorded archaeological site is located within five hundred (500) feet of the development. ~~((—))~~ To comply with this guideline ((subsection (B)(1)(e)(2)(d) of this section)), the entity or person undertaking the development shall contact the Washington ~~((Office))~~ Department of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.

d. The following aboveground and overhead utility facilities:

- (1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (a) the same location and size as the existing facilities, and (b) the same building materials as the existing facilities, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [\(Part I, Chapter 1: Scenic Resources\)](#).
 - (2) Replace existing utility poles; provided, that the replacement poles are:
 - (a) Located within five (5) feet of the original poles;
 - (b) No more than five (5) feet taller and six (6) inches wider than the original poles; and
 - (c) Constructed of natural wood, weathering steel (e.g., Corten), or materials that match the original poles, or materials that are dark brown with a flat, nonreflective finish.
 - (3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.

e. The following signs:

- (1) Election signs. Removal must be accomplished within thirty (30) days of election day.
 - (2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.
 - (3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices ([2012 or most recent version](#)). Removal must be accomplished within thirty (30) days of project completion.
 - (4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premises, or signs prohibiting or otherwise controlling fishing or hunting; provided, that such signs are not greater than six (6) square feet in the GMA and two (2) square feet in the SMAs.
 - (5) Temporary signs advertising civil, social, or political gatherings and activities; provided, that such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30) days of the close of the event.

- (6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

- (7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

Section 13. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.130, and most recently amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

40.240.130 Agricultural Buffer Zones in the General Management Area

All new buildings shall comply with the setbacks in Table 40.240.130-1 when proposed to be located on a parcel adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture and which are currently used for (~~or are suitable for~~) agricultural use:

A. Setback Guidelines.

Table 40.240.130-1. Type of Buffer (Feet from Property Line of Adjacent Agricultural Parcel)

Table 40.240.130-1. Type of Buffer (Feet from Property Line of Adjacent Agricultural Parcel)			
Existing Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-Foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

B. New buildings adjacent to lands designated Large-Scale or Small-Scale Agriculture that are suitable, but currently not used for agriculture, shall use the open or fenced setback associated with the dominant type of agriculture in the vicinity. If a vegetation barrier, 8-foot berm, or terrain barrier exists, the corresponding setback shall apply. If more than one type of agriculture is dominant, the setback shall be the larger width.

C((B)). Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of eight (8) feet in height, and contoured at three to one (3:1) slopes to look natural. Shrubs, trees (and) or grasses shall be planted on the berm to control erosion and achieve a finished height of fifteen (15) feet.

D(EG). The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least six (6) feet high when planted and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

E(DD). The necessary berthing (and) or planting must be completed during the first phase of development and maintained in good condition.

F(EE). If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

G(F). A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 40.240.150 have been satisfied.

1 (Amended: Ord. 2006-05-04)

3 **Section 14. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.150, and most recently
4 amended by Sec. 1 (Exh. A) of Ord. 2009-03-02 are each hereby amended as follows:

6 **40.240.150 Variances from Setbacks and Buffers (GMA)**

7 A. Variances from setbacks and buffers within the GMA shall be reviewed under administrative variance criteria
8 of Section 40.550.020. When setbacks or buffers for the protection of scenic, cultural, natural, recreation,
9 agricultural or forestry resources, or nonresource uses, overlap or conflict, the setbacks or buffers may be varied
10 upon a demonstration that:

- 11 1. A setback or buffer to protect one (1) resource or use would cause the proposed use to fall within a
12 setback or buffer to protect another resource; and
- 13 2. Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the
14 affected resources.

15 (Amended: Ord. 2009-03-02)

16 B. A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or
17 nonresource uses, may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

- 18 1. The land use designation otherwise authorizes a residence on the tract;
- 19 2. No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could
20 practically be placed in full compliance with the setback or buffer; (and)
- 21 3. The variance from the specified setback or buffer is the minimum necessary to allow the residence; and
- 22 4. The variance shall not be used to permit an addition to a building (including, but not limited to, decks and
23 stairs), when the addition would be within the setback, except where the building is wholly within the setback,
24 in which case, the addition may only be permitted on the portion of the building that does not encroach any
25 further into the required setback.

26 C. The responsible official may grant a variance to the setback and buffer requirements in Section 40.240.890,
27 upon finding that the following conditions exist:

- 28 1. The proposed project is a public use, resource-based recreation facility providing or supporting either
29 recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a
30 scenic travel corridor.
- 31 2. All reasonable measures to redesign the proposed project to comply with required setbacks and buffers
32 have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the
33 site as proposed.
- 34 3. Resource impacts have been mitigated to less than adverse levels through design provisions and
35 mitigation measures.
- 36 4. The variance is the minimum necessary to accommodate the use.

37 (Amended: Ord. 2006-05-04)

39 **Section 15. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.160, and most recently
40 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

1
 2 **40.240.160 Applying New Less-Stringent Regulations to Development Approved Under Prior National**
 3 **Scenic Area Regulations**

4 A landowner may submit a land use application to alter conditions of approval for an existing use or structure
 5 approved under prior National Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final*
 6 *Interim Guidelines*, original Management Plan), subject to the following standards:

- 7 A. The applicant shall apply for the same development that was reviewed in the original administrative or
 8 examiner decision.
- 9 B. The development shall remain in its current location.
- 10 C. The agency that currently has jurisdiction over the applicant's property shall review the application and send
 notice of the application to agencies and other parties entitled to receive notice under the current rules.
- 12 D. The agency shall review the entire development to ensure that it would fully comply with all the current
 guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural
 resources).
- 15 E. The agency shall issue a new administrative or examiner decision that supersedes the original decision.
- 16 F. The new administrative or examiner decision may remove or revise original conditions or approval or add new
 conditions or approval to ensure full compliance with all the current guidelines.

18 (Amended: Ord. 2006-05-04)

20 **Section 16. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.170, and most recently
 21 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

23 **40.240.170 Existing and Discontinued Uses**

24 A. Except as otherwise provided, existing uses or structures in the Clark County portion of the Scenic Area may
 25 continue, so long as it is used in the same manner and for the same purpose.

26 B. Replacement of Existing Structures Not Damaged or Destroyed by Disaster.

27 Except as provided in Section 40.240.170(C), an existing structure may be replaced if a complete land use
 28 application for a replacement structure is submitted to the reviewing agency within one (1) year of the date the use
 29 of the original structure was discontinued. The replacement structure shall comply with the following standards:

- 30 1. The replacement structure shall ((be used in the same manner and for the same purpose))have the same
 31 use as the original structure.
- 32 2. The replacement structure may have a different size ((and/))or location than the original structure. An
 33 existing ((mobile))-manufactured home may be replaced with a framed residence and an existing framed
 34 residence may be replaced with a ((mobile))manufactured home.
- 35 3. The replacement structure shall be subject to:
 - 36 a. Scenic, cultural, recreation and natural resources guidelines;
 - 37 b. Treaty rights guidelines; and
 - 38 c. Land use designations guidelines involving agricultural buffer zones, approval criteria for fire
 protection, and approval criteria for siting of dwellings on forest land.

1 4. The original structure shall be considered discontinued if a complete land use application for a
 2 replacement structure is not submitted within the one (1) year time frame.

3 C. Replacement of Existing Structures Damaged or Destroyed by Disaster.

4 An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a
 5 complete land use application for a replacement structure is submitted to the reviewing agency within two (2) years
 6 of the date the original structure was damaged or destroyed. The replacement structure shall comply with the
 7 following standards:

8 1. The replacement structure shall ((be used in the same manner and for the same purpose)) have the same
 9 use as the original structure. An existing ((mobile-))manufactured home may be replaced with a framed
 10 residence.

11 2. The replacement structure shall be in the same location as the original structure. An exception may be
 12 granted and the replacement structure may be sited in a different location if all the following conditions exist:

13 a. A registered civil engineer, registered geologist, or other qualified and licensed professional hired by
 14 the applicant demonstrates the disaster made the original building site physically unsuitable for
 15 reconstruction.

16 b. The new building site is no more visible from key viewing areas than the original building site. An
 17 exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed
 18 professional hired by the applicant demonstrates the subject parcel lacks alternative building sites
 19 physically suitable for construction that are no more visible from key viewing areas than the original
 20 building site.

21 c. The new building site complies with the cultural resources, natural resources, and treaty rights
 22 ((protection-))guidelines.

23 3. The replacement structure shall be the same size and height as the original structure; provided, that:

24 a. The footprint of the replacement structure may be up to ten percent (10%) larger than the footprint of
 25 the original structure. The footprint of a structure includes any covered decks and porches, attached
garages, and breezeways that share a wall with the structure.

27 b. The walls of the replacement structure shall be the same height as the walls of the original structure
 28 unless a minor increase is required to comply with standards in the current jurisdictional building code.
Height is generally defined as the greatest vertical distance between the lowest finished grade adjoining
any exterior wall and the highest point of the roof.

31 4. The replacement structure shall only be subject to the following scenic resources standards:

32 a. The replacement structure shall comply with the ((scenic resources-))guidelines regarding color and
 33 reflectivity in 40.240.800. These guidelines shall be applied to achieve the applicable scenic standard
 34 (visually subordinate or not visually evident) to the maximum extent practicable.

35 b. Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as
 36 enclosed (walls and roof) portions of the replacement structure.

37 c. In the GMA, the replacement structure shall comply with the ((scenic resources-)) GMA guidelines
 38 regarding landscaping in 40.240.800. These guidelines shall be applied to achieve the applicable scenic
 39 standard (visually subordinate) to the maximum extent practicable.((-, provided, that:)

40 ((1) Except as provided in Section 40.240.170(C)(4)(c)(2), the percent of the replacement structure-
 41 screened by vegetation as seen from key viewing areas shall not exceed the percent of the original-
 42 structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall-

1 be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous
 2 vegetation unless the applicant chooses to use all coniferous vegetation.

3 (2) In situations where the original structure was approved under Scenic Area regulations (e.g.,
 4 Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by
 5 vegetation shall comply with any conditions of approval that required a landowner to preserve existing
 6 vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key
 7 viewing areas.

8 (3) To help determine how much vegetation may be required under Section 40.240.170(C)(4)(c)(1)
 9 and (2), land use applications shall include all available documentation (photographic or otherwise) on
 10 the amount and type of vegetation that screened the original structure from key viewing areas. At a
 11 minimum, development review decisions shall include findings that address the following:

12 (a) The percent of original structure facing each key viewing area that was screened by
 13 coniferous vegetation, for each key viewing area from which the structure was visible.

14 (b) The percent of original structure facing each key viewing area that was screened by
 15 deciduous vegetation, for each key viewing area from which the structure was visible.

16 (c) Elevation drawings showing the replacement structure and the amount of coniferous and
 17 deciduous vegetation that would screen the structure from key viewing areas in ten (10) years.

18 (d) The height of any new trees shall not be required to exceed five (5) feet.

19 (e) The time frame for achieving visual subordinance shall be ten (10) years or less from the
 20 commencement of construction.)

21 d. In the SMA, the replacement structure shall comply with the ((scenic resources))SMA guidelines
 22 regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard
 23 (visually subordinate or not visually evident) to the maximum extent practicable; provided, that:

24 (1) ((The Scenic Resources Implementation Handbook shall be utilized to determine
 25 approvable))Use of plant species appropriate for the area and minimum ((approvable))sizes of new
 26 trees ((planted)) needed to achieve the standard (based on average growth rates expected for
 27 ((approvable))the recommended species) are required. Examples of native specific are identified in the
 28 Scenic Resources Implementation Handbook as appropriate to the area.

29 (2) The height of any new trees shall not be required to exceed five (5) feet.

30 (3) The time frame for achieving the applicable scenic standard (visually subordinate or not visually
 31 evident) shall be ten (10) years.

32 5. The replacement structure shall be pursuant to Sections 40.240.170(B)(1), (B)(2) and (B)(3) if it would
 33 not comply with Sections 40.240.170(C)(2) and (C)(3).

34 6. The original structure shall be considered discontinued if a complete land use application for a
 35 replacement structure is not submitted within the two (2) year time frame.

36 (Amended: Ord. 2006-08-21; Ord. 2008-06-02)

37 D. Changes to Existing Uses and Structures.

38 Except as otherwise provided, any change to an existing use or modification to the exterior of an existing
 39 structure shall be subject to review and approval pursuant to this chapter.

40 1. Expansion of Existing Commercial and Multifamily Residential Uses. In the special management area,
 41 existing commercial and multifamily residential uses may expand as necessary for successful operation on the

1 dedicated site, pursuant to Sections 40.240.800 through 40.240.900 to minimize adverse effects on scenic,
 2 cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited.

3 ~~((2. Expansion of Existing Industrial Uses. In the GMA existing industrial uses may expand as necessary for
 4 successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.))~~

5 ~~2((3)). Conversion of Existing Industrial Uses. In the GMA, existing industrial uses may convert to less
 6 intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects
 7 upon scenic, cultural, natural and recreation resources.~~

8 ~~((4. Existing Development or Production of Mineral Resources. In the GMA, existing development or
 9 production of mineral resources may continue unless the Gorge Commission determines that the uses adversely
 10 affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered
 11 discontinued and subject to this chapter if any of the following conditions exist:~~

12 ~~(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to fifty
 13 percent (50%) of its original cover (considering both basal and canopy) or has reverted to another
 14 beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared
 15 of vegetation.~~

16 ~~(b) The site has not maintained a required state permit.~~

17 ~~(c) The site has not operated legally within five (5) years before the date of adoption of the
 18 Management Plan.~~

19 ~~5))3. Existing Development or Production of Mineral Resources. In the SMA~~s~~, uses involving the
 20 exploration, development or production of sand, gravel or rock in the SMA~~s~~ may continue if both of the
 21 following conditions exist:~~

22 ~~(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage
 23 or harvest forest products in the Special Management Area~~s~~; and~~

24 ~~(b) A determination by the Forest Service finds that the use does not adversely affect the scenic,
 25 cultural, natural or recreation resources.~~

26 E. Discontinuance of Existing Uses and Structures.

27 Except as provided in Section 40.240.170(C), any use or structure that is discontinued for one (1) year or more
 28 shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an
 29 existing use or use of an existing structure has been discontinued.

30 1. Multiple Uses. An existing use or structure with more than one legally established use may discontinue
 31 one of the uses without discontinuing the others.

32 2. Change in Use. An existing use or structure shall become discontinued if the use or use of the structure
 33 changes.

34 F. Discontinued Uses and Structures.

35 Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all
 36 applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use
 37 designations and scenic, cultural, recreation and natural resources.

38 (Amended: Ord. 2006-05-04)

1 **Section 17. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.180, and most recently
 2 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

4 **40.240.180 Indian Tribal Treaty Rights and Consultation**

5 A. Proposed ((N))new review uses and development located in, ((or))providing recreation river access to, or on
 6 parcels that adjoin the Columbia River or its fishbearing tributaries shall include the following supplemental
 7 information:

8 1. The site plan map shall show adjacent river areas at least one-half (1/2) mile upstream and downstream
 9 from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites
 10 known to the project applicant.

11 2. A description of the type of river access and uses proposed, estimated period when the development
 12 would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods. ((The site
 13 plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights.
 14 The assessment shall:

15 a. Describe the type of river access and uses proposed, estimated period when the development would
 16 be used, and anticipated levels of use (people, boats, and other uses) during peak use periods.

17 b. List tribal commercial fishing seasons in the project vicinity, as established by the four (4) treaty
 18 tribes.

19 c. List tribal ceremonial fishing seasons in the project vicinity.

20 d. Based on the above factors, assess the potential effects that the proposed uses may have on Indian-
 21 treaty rights.))

22 3. Proposed treaty rights protection measures that will be used to avoid effects to Indian treaty or other rights.
 23 These measures may include reducing the size and modifying the location or design of the proposed uses,
 24 seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers
 25 delineating fishing net locations.

26 B. At the same time that the county sends notice, the county shall offer to meet with or consult with the tribal
 27 government prior to making an administrative or examiner decision on the proposed development. Offers to meet or
 28 consult with a tribal government shall include phone calls and electronic communication to tribal government chairs,
 29 chief administrative officers, and natural and cultural resource staff. The county shall make more than one attempt to
 30 contact a tribal government ((Notices shall include a treaty rights protection plan if new uses may affect Indian-
 31 treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights.
 32 These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal
 33 closures, stringent on site monitoring, information signs, and highly visible buoys or other markers delineating
 34 fishing net locations.))

35 C. ((Indian t))Tribal governments shall have ((twenty))thirty ((2))30 calendar days from the date a notice is
 36 sent mailed request that the county consult with the tribal government regarding potential effects or modifications to
 37 treaty or other rights of the tribe. All substantive comments, recommendations, or concerns expressed by tribal
 38 governments during the consultation meeting shall be summarized by the county, subject to the following
 39 confidentiality standards:

40 1. The county shall keep confidential and may not disclose to any person or party who is not the applicant, the
 41 applicant's representative or the necessary county planning staff and decision makers the tribal government's
 42 comments, recommendations, and concerns, and notes of the consultation and other information related to
 43 protection of treaty rights, unless the tribal governments expressly authorizes disclosure.

44 2. The confidential information shall be submitted to the Gorge Commission for review in the event of an
 45 appeal, and shall remain confidential and not subject to disclosure to any person or party other than the

1 applicant, the applicant's representative, the appellant, the appellants representative or the necessary Gorge
 2 Commission staff and Gorge Commission members unless the tribal government expressly authorizes
 3 disclosure.

4 D. Any time periods specified in a county ordinance to review an application shall stop when a tribal government
 5 requests consultation and shall not start again until the county meets with all tribal governments that requested
 6 consultation and the county receives all additional information and actions from the project applicant necessary to
 7 avoid effects to treaty rights to the satisfaction of the tribal governments that requested consultation.

8 E. A tribal government's choice to consult with the county shall, in no way, be interpreted as a waiver of the
 9 tribe's sovereign immunity or waiver of any claim that the proposed use affects or modifies a treaty right or other
 10 tribal rights.

11 ~~((to submit substantive written comments to the responsible official. Indian tribal governments must identify the
 12 treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new
 13 uses.~~

14 D. **Tribal Government Consultation.**

15 1. When substantive written comments are submitted to a responsible official in a timely manner, the project
 16 applicant shall offer to meet with the responsible official and the Indian tribal government that submitted
 17 comments within ten (10) calendar days. The ten (10) day consultation period may be extended upon agreement
 18 between the project applicant and the Indian tribal government. Consultation meetings should provide an
 19 opportunity for the project application and tribal representatives to identify potential conflicts and explore
 20 options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or
 21 modify treaty or other rights of any Indian tribe.))

22 2. All~~((ny))~~ substantive comments, recommendations, or concerns expressed by ~~((Indian))~~ tribal
 23 governments during the consultation meeting shall be ~~((recorded and addressed))~~ resolved by the county or
 24 project applicant through revisions to the project application, conditions of approval, and, if necessary in a
 25 treaty rights protection plan. The protection plan shall include measures to avoid effects or modifications to
 26 treaty and other rights of any Indian tribe.

27 ~~((3. The responsible official shall submit all protection plans to the Indian tribal governments. Indian tribal
 28 governments shall have thirty (30) calendar days from the date a protection plan is mailed to submit written
 29 comments to the responsible official.))~~

30 E. Conclusion of the Treaty Rights Protection Process.

31 1. ~~((The responsible official shall decide whether the proposed uses would affect or modify any treaty or
 32 other rights of any Indian tribe.))~~ The ((final)) administrative or examiner decision shall integrate findings of
 33 fact that address the county's effort to meet with or consult with the tribal governments and any revisions and
 34 treaty rights protection plan resolving the tribal governments' ((any substantive)) comments,
 35 recommendations, or concerns ((expressed by Indian tribal governments. If the final decision contradicts the
 36 comments, recommendations, or concerns of Indian tribal governments, the responsible official must justify
 37 how it reached an opposing conclusion.))

38 2. The treaty rights protection process may conclude if the responsible official determines that the proposed
 39 uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such
 40 rights shall be prohibited.

41 3. A finding by the responsible official that the proposed uses would not affect or modify treaty or other
 42 rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these
 43 guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely
 44 affect or modify treaty or other tribal rights.

1 F. For new development and uses in the SMA, the Forest Service shall determine effects on treaty rights and
 2 shall notify the responsible official of the determination.

3 (Amended: Ord. 2006-05-04)

4

5 **Section 18. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.210, and most recently
 6 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

7

8 **40.240.210 Temporary Use Hardship Dwellings**

9 Temporary use hardship dwellings shall be permitted in the GMA and SMA on parcels containing a principal
 10 residential dwelling, subject to the following:

11 A. The temporary placement of a ((mobile-))manufactured home, a tiny home on a trailer, or other similar
 12 structure may be granted under the following circumstances:

13 1. A family hardship exists where conditions relate to the necessary care for a family member ((of the-
 14 family occupying the principal dwelling and-))where medical conditions relate to the infirm or aged.

15 2. The hardship dwelling shall use the same subsurface sewage disposal system and well used by the
 16 existing dwelling, or utilize existing public sewer and water systems. In all cases well and septic systems shall
 17 be used in a manner and location to minimize impacts to resource lands.

18 3. The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural,
 19 natural and recreation resources of Sections 40.240.800 through 40.240.900.

20 4. The structure does not require a permanent foundation.

21 B. A permit may be issued for a two (2) year period, subject to annual review for compliance with the provisions
 22 of this rule and any other conditions of approval.

23 C. Upon expiration of the permit or cessation of the hardship, whichever comes first, the ((mobile-
 24 home))hardship dwelling shall be removed within thirty (30) days. A new permit may be granted upon a finding that
 25 a family hardship continues to exist.

26 (Amended: Ord. 2006-05-04)

27

28 **Section 19. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.220, and most recently
 29 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

30

31 **40.240.220 Sewer and Water Services**

32 A. Sewer lines may be extended from an urban area into a rural area to serve:

33 1. Areas with a documented health hazard.

34 2. Recreation uses open to the public, only upon a demonstration by the responsible official ((local-
 35 government)) that there is no practicable alternative to providing service to the area. In such cases, the lines
 36 shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the
 37 sole justification for revision to an urban area boundary.

38 B. New uses authorized in this chapter may hook up to existing sewer and water lines in rural areas.

39 (Amended: Ord. 2006-05-04)

1

2 **Section 20. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.230, and most recently
 3 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

4

5 **40.240.230 Docks and Boathouses**

6 A. New, private docks and boathouses serving only one (1) family and one (1) property ((shall))may be allowed,
 7 up to one hundred twenty (120) square feet in size.

8 B. New, private docks and boathouses serving more than one (1) family and property ((shall))may be allowed,
 9 up to two hundred (200) square feet in size.

10 C. Public docks open and available for public use ((shall))may be allowed.

11 D. Boathouses may be allowed under Sections 40.240.230(A) and (B) only when accessory to a dwelling and
 12 associated with a navigable river or lake.

13 (Amended: Ord. 2006-05-04)

14

15 **Section 21. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.240, and most recently
 16 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

17

18 **40.240.240 Home Occupations ((and Cottage Industries))**

19 Home occupations ((and cottage industries))may be established as authorized in specified land use designations
 20 consistent with the following ((guidelines))conditions:

21 A. ((A home occupation m))May employ ((only))the residents of the home and up to three (3) outside
 22 employees.

23 ((B.— A cottage industry may employ up to three (3) outside employees.))

24 ((E))B. No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used for
 25 the home occupation((or cottage industry)).

26 ((D))C. No more than five hundred (500) square feet of an accessory structure may be used for a home
 27 occupation((or cottage industry)).

28 ((E))D. There shall be no outside, visible evidence of the home occupation((or cottage industry)), including
 29 outside storage.

30 ((F))E. Exterior structural alterations to the residence for the home occupation ((or cottage industry))shall not be
 31 permitted. New structures shall not be constructed for the primary purpose of housing a home occupation((or
 32 cottage industry)).

33 ((G))F. No retail sales may occur on the premises((, except incidental sales at lodging establishments authorized
 34 in this chapter)).

35 ((H))G. One (1) nonanimated, nonilluminated sign, not exceeding two (2) square feet in area, may be permitted
 36 on the subject structure or within the yard containing the home occupation((or cottage industry)).

37 ((I))H. Parking not associated with residential use shall be screened so it is not visible from key viewing areas.

38 ((J))I. In the GMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered a
 39 home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250.

1 ((K))J. In the SMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered a
 2 home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250, except Section
 3 40.240.250(D).

4 (Amended: Ord. 2006-05-04)

5

6 **Section 22. New.** A new Section CCC 40.240.245 is hereby adopted as follows:

7

8 **40.240.245 Overnight Accommodations**

9 A. Overnight accommodations may be established in a legal single-family dwelling, in the 5-acre and 10-acre
 10 Residential land use designations, consistent with the following conditions:

11 1. The owner of the subject parcel may rent the dwelling for up to 90 room nights per year.

12 2. Parking areas shall be screened so they are not visible from key viewing areas.

13 3. The use is incidental and subordinate to the primary use of the property.

14 4. The dwelling must be the permanent residence of the owner and occupied by the owner during
 15 rental.

16 5. Commercial events are not permitted at overnight accommodations.

17 6. The overnight accommodation may employ up to three employees other than the residents of the
 18 dwelling.

19 7. Land use approvals for overnight accommodations shall be valid for no more than two years.
 20 Landowners must reapply for the use after a land use approval expires, demonstrating compliance with
 21 conditions of approval through financial and other records. Permits will not be renewed if there have been
 22 past violations, including failure to file.

23 **Section 23. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.250, and most recently
 24 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

25

26 **40.240.250 Bed and Breakfast Inns**

27 Bed and breakfast inns may be established as authorized in specified land use designations subject to Section
 28 40.260.050, and the following:

29 A. Guests may not occupy a facility for more than fourteen (14) consecutive days.

30 B. One (1) nonanimated, nonilluminated sign not exceeding four (4) square feet in area may be permitted on the
 31 structure or within the yard containing the structure.

32 C. Parking areas shall be screened so as to not be visible from key viewing areas.

33 D. In the SMAs, bed and breakfast inns associated with a residential use shall be allowed only in structures that
 34 are included in, or eligible for inclusion in, the National Register of Historic Places.

35 (Amended: Ord. 2006-05-04)

36

1 **Section 24. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.260, and most recently
2 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:
3

4 **40.240.260 Small-Scale Fishing Support and Fish Processing Operations**

5 Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing
6 business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA Small-Scale
7 Agriculture, subject to the following conditions:

8 A. The operation shall comply with Section 40.240.180. In addition, if the operation will be located on land
9 designated Small Woodland, then it shall also comply with Sections 40.240.540 and 40.240.550.

10 B. The following fishing support activities may be allowed:

11 1. Maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used
12 in the family-based commercial fishing business; and

13 2. Garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based
14 commercial fishing business.

15 C. The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of
16 fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be
17 allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.

18 D. The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia
19 River.

20 E. The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate
21 in the fishing support and fish processing operation.

22 F. The operation may only employ residents of the dwelling and up to three (3) outside employees.

23 G. No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used for the
24 fishing support and fish processing operation.

25 H. The operation may take place in an existing or new lawful accessory building or an existing agricultural
26 building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish
27 processing operation shall be considered an accessory building. An existing agricultural building shall not be
28 expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and
29 fish processing operation.

30 I. An accessory building used in the fishing support and fish processing operation may be allowed up to two
31 thousand five hundred (2,500) square feet.

32 J. Docks may be allowed as follows:

33 1. One (1) dock serving a parcel with an approved fishing support and fish processing operation may be allowed
34 up to five hundred (500) square feet in size.

35 2. For multiple contiguous parcels each with approved fishing support and fish processing operation, the area of
36 the docks authorized in subsection (J)(1) of this section may be combined into one (1) dock; provided, that the total
37 size of the dock shall not exceed two thousand (2,000) square feet.

38 K. There shall be no outside visible evidence of the fishing support and fish processing operation, including
39 storage, other than boats and docks.

40 L. No retail sales may occur on the parcel.

1 M. The operation shall only support and process fish caught by residents of the dwelling and up to three (3)
 2 outside employees.

3 N. Before beginning the operation, applicants shall demonstrate that they have obtained and complied with
 4 federal, state and ((/or)) local water quality and wastewater permits.

5 (Amended: Ord. 2006-05-04)

6

7 **Section 25. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.270, and most recently
 8 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

9

10 **40.240.270 Resource Enhancement Projects**

11 A. Applications for resource enhancement projects must describe the goals and benefits of the proposed
 12 enhancement project. They must also thoroughly document the condition of the resource before and after the
 13 proposed enhancement project. Applicants shall seek technical assistance from federal, state or county technical
14 experts for assistance in designing voluntary wetland, stream, habitat, plant, and scenic enhancement projects.

15 B. In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry
 16 enhancement projects shall comply with the following guidelines:

17 1. Application Requirements. In addition to other applicable requirements, land use applications for quarry
 18 enhancement projects shall include perspective drawings of the site as ((seen))visible from key viewing areas as
 19 specified in Section 40.240. 285((800(B)(15))) and a reclamation plan that provides at a minimum the following
 20 ((all the applicable)) information ((specified in Sections 40.240.800(A)(6)(a) through (e), except: (a) the words
 21 "pre reclamation" and "post reclamation" should replace the words "pre mining" and "post mining,"
 22 respectively, and (b) the appropriate state agency or local government does not have to approve the reclamation
23 plan)).

24 a. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail,
 25 with 10-foot contour intervals or less, showing pre- reclamation existing grades and post- reclamation final
 26 grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar
 27 drainage and erosion control features employed for the duration of the use; and the location of storage,
 28 processing, and equipment areas employed for the duration of the use.

29 b. Cross-sectional drawings of the site showing pre- reclamation and post- reclamation grades.

30 c. Descriptions of the proposed use, in terms of estimated quantity and type of material removed,
 31 estimated duration of the use, processing activities, etc.

32 d. Description of drainage/erosion control features to be employed for the duration of the use.

33 e. A landscaping plan providing for revegetation consistent with the vegetation patterns of the
 34 subject landscape setting, indicating the species, number, size, and location of plantings for the final
 35 reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the
 36 survival of plantings.

37 2. Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural appearance that
 38 blends with and emulates surrounding landforms to the maximum extent practicable.

39 3. Natural Resource Standard. Sites shall be replanted using native plants found in the landscape setting or
 40 eco-region to the maximum extent practicable.

41 4. Time Frames. The following time frames shall apply to quarry enhancement projects:

- 1 a. All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the
2 date an applicant begins on-the-ground work.
- 3 b. All landscaping shall be planted within one (1) year of the date an applicant completes the grading.
- 4 c. An applicant may request one (1) one (1) year extension to the one year grading time frame if a
5 project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be
6 considered an administrative action. An applicant shall submit such a request to the reviewing agency after
7 grading has commenced and before the one (1) year grading time frame has expired.
- 8 d. An applicant may also request one (1) six (6) month extension to the one (1) year landscaping time
9 frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall
10 be considered an administrative action. An applicant shall submit such a request to the reviewing agency
11 after landscaping has commenced and before the one (1) year landscaping time frame has expired.

12 C. Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts
13 comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a
14 written plan consistent with the provisions under 40.240.840.I.

15 D. Enhancement of streams, ponds, lakes, and riparian areas not associated with any other development
16 proposal may be allowed. Enhancement efforts shall be conducted pursuant to a written plan consistent with the
17 provisions under 40.240.840.K.

18 E. In the SMAs, enhancement of wetlands, streams, ponds, lakes, and riparian areas not associated with any
19 other project proposal may be allowed if such efforts comply with the wetlands, streams, ponds, lakes, and riparian
20 areas provisions in 40.240.840. Enhancement efforts shall be conducted pursuant to a written plan, consistent with
21 the provisions described in 40.240.880.

22 (Amended: Ord. 2006-05-04)

24 **Section 26. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.280, and most recently
25 amended by Sec. 1 (Exh. A) of Ord. 2006-08-21 are each hereby amended as follows:

27 **40.240.280 Disposal Sites for Spoil Materials from Public Road Maintenance Activities**

28 A. Application Requirements.

29 In addition to other applicable requirements, land use applications for disposal sites shall include the same
30 information that applicants are required to submit for expansion of existing quarries and exploration, development
31 (extraction and excavation), and production of mineral resources (production and/or development of mineral-
32 resources.) in the GMA, including, but not limited to:

33 1. A reclamation plan that provides at a minimum the following ((all the applicable))information ((specified
34 in Sections 40.240.800(A)(6)(a) through (e), except (a) the words "pre disposal" and "post disposal" should
35 replace the words "pre-mining" and "post-mining," and (b) the appropriate state agency or local government
36 does not have to approve the reclamation plan)).

37 a. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail,
38 with 10-foot contour intervals or less, showing pre- reclamation existing grades and post- reclamation final
39 grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar
40 drainage and erosion control features employed for the duration of the use; and the location of storage,
41 processing, and equipment areas employed for the duration of the use.

42 b. Cross-sectional drawings of the site showing pre- reclamation and post- reclamation grades.

1 c. Descriptions of the proposed use, in terms of estimated quantity and type of material removed,
 2 estimated duration of the use, processing activities, etc.

3 d. Description of drainage/erosion control features to be employed for the duration of the use.

4 e. A landscaping plan providing for revegetation consistent with the vegetation patterns of the
 5 subject landscape setting, indicating the species, number, size, and location of plantings for the final
 6 reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the
 7 survival of plantings.

8 2. Perspective drawings of the site as ((seen))visible from key viewing areas as specified in Section
 9 40.240.285((800(B)(15))).

10 3. Cultural resource reconnaissance and historic surveys, as required by Section 40.240.820(A)(3)(a) and
 11 (b), respectively. Disposal sites shall be considered a “large-scale use” according to Section
 12 40.240.820(A)(3)(c).

13 4. Field surveys to identify sensitive wildlife areas or sites and rare ((sensitive))plants as described in
 14 Sections 40.240.860(C) and 40.240.870(C).

15 B. Siting Standard.

16 The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the
 17 disposal site outside the National Scenic Area or inside an urban area. At a minimum, the applicant shall submit a
 18 feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites
 19 located both outside the National Scenic Area and inside an urban area.

20 C. Scenic Resource Standards.

21 Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries
 22 and exploration, development (extraction and excavation), and production of mineral resources ((production and/or
 23 development of mineral resources)) in the GMA, as follows:

24 1. Sites more than ((three (3))) four (4) -miles from the nearest key viewing area shall be visually
 25 subordinate as ((seen))visible from any key viewing area, pursuant to Section 40.240.285((800(B)(27))). An
 26 interim period to achieve compliance with this requirement shall be established before approval. The period
 27 shall be based on site-specific topographic and visual conditions, but shall not exceed three (3) years beyond
 28 the start of on-the-ground activities.

29 2. Sites less than ((three (3)))four (4) miles from the nearest key viewing area shall be fully screened from
 30 any key viewing area, pursuant to Section 40.240.285((800(B)(28))). An interim period to achieve compliance
 31 with this requirement shall be established before approval. The period shall be based on site-specific
 32 topographic and visual conditions, but shall not exceed one (1) year beyond the start of on-the-ground
 33 activities. Disposal activity occurring before achieving compliance with full screening requirements shall be
 34 limited to activities necessary to provide such screening (creation of berms, etc.).

35 3. Reclamation plans shall restore the site to a natural appearance that blends with and emulates
 36 ((surrounding)) natural landforms and vegetation patterns characteristic to the landscape setting to the
 37 maximum extent practicable.

38 (Amended: Ord. 2006-05-04; Ord. 2006-08-21)

39
 40 **Section 27. New.** A new Section CCC 40.240.285 is hereby adopted as follows:
 41

1 **40.240.285 Expansion of Existing Quarries and Exploration, Development, and Production of Mineral**
2 **Resources**

3 A. Expansion of existing quarries and exploration, development (extraction and excavation), and production of
4 mineral resources may be allowed where authorized in specified land use designations and consistent with sections
5 B through G of this section and with Section 40.250.022.

6 B. Expansion of existing quarries and exploration, development (extraction and excavation), and production of
7 mineral resources proposed on sites more than four (4) miles from the nearest key viewing areas from which it is
8 visible may be allowed upon a demonstration that:

- 9 1. The site plan requirements for such proposals pursuant to this chapter have been met.
- 10 2. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc.,
11 associated with the use would be visually subordinate as visible from any key viewing areas.
- 12 3. A reclamation plan to restore the site to a natural appearance that blends with and emulates distinctive
13 characteristics of the designated landscape setting to the maximum extent practicable has been approved. At
14 minimum, the reclamation plan shall comply with 40.240.285.F and G in this section.
- 15 4. A written report on a determination of visual subordinance has been completed, with findings addressing
16 the extent of visibility of proposed mining activities from key viewing areas, including:

- 17 a. A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities)
18 would be visible.
- 19 b. An estimate of the surface area of exposed mining surfaces that would be visible from those key
20 viewing areas.
- 21 c. The distance from those key viewing areas and the linear distance along those key viewing areas from
22 which proposed mining surfaces are visible.
- 23 d. The slope and aspect of mining surfaces relative to those portions of key viewing areas from which
24 they are visible.
- 25 e. The degree to which potentially visible mining surfaces are screened from key viewing areas by
26 existing vegetation, including winter screening considerations.
- 27 f. The degree to which potentially visible mining surfaces would be screened by new plantings, berms,
28 etc., and appropriate time frames to achieve such results, including winter screening considerations.

29 C. Unless addressed by 40.240.285.B of this section, exploration, development (extraction and excavation),
30 and production of mineral resources may be allowed upon a demonstration that:

- 31 1. The site plan requirements for such proposals pursuant to this chapter have been met.
 - 32 2. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc.,
33 associated with the use would be fully screened from any key viewing area.
 - 34 3. A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding
35 landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall
36 comply with 40.240.285.F and G in this section.
- 37 D. An interim time period to achieve compliance with visual subordinance requirements for expansion of
38 existing quarries and development of new quarries located more than four (4) miles from the nearest key viewing
39 area from which it is visible shall be established before approval. The interim time period shall be based on site-
40 specific topographic and visual conditions, but shall not exceed three (3) years beyond the date of approval.

1 E. An interim time period to achieve compliance with full screening requirements for new quarries located
 2 less than four (4) miles from the nearest key viewing area from which it is visible shall be established before
 3 approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not
 4 exceed one (1) year beyond the date of approval. Quarrying activity occurring before achieving compliance with full
 5 screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

6 F. For all exploration, development (extraction and excavation), production of mineral resources and
 7 expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends
 8 with and emulates distinctive characteristics inherent to its landscape setting to the maximum extent practicable. At
 9 a minimum, such reclamation plans shall include:

- 10 1. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-
 11 foot contour intervals or less, showing pre- mining existing grades and post-mining final grades; locations of
 12 topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control
 13 features employed for the duration of the use; and the location of storage, processing, and equipment areas
 14 employed for the duration of the use.
- 15 2. Cross-sectional drawings of the site showing pre-mining and post-mining grades.
- 16 3. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated
 17 duration of the use, processing activities, etc.
- 18 4. Description of drainage/erosion control features to be employed for the duration of the use.
- 19 5. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject
 20 landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as
 21 well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
- 22 6. If the site is visible from key viewing areas, the applicant shall also submit perspective drawings of the
 23 proposed mining areas as visible from applicable key viewing areas.

24 G. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate
 25 state reclamation permitting agency for review and comment. The reviewing agency may request technical
 26 assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.
 27 The state agency shall have 30 calendar days from the date a reclamation plan is sent to submit written comments on
 28 the proposal. State agency comments shall address the following:

- 29 1. Whether the proposed mining is subject to state reclamation permit requirements;
- 30 2. If subject to state jurisdiction, whether an application has been received for a state reclamation permit and,
 31 if so, the current status of the application; and
- 32 3. For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation
 33 requirements, or any suggested modifications to comply with state reclamation requirements.

35 **Section 28. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.290, and most recently
 36 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:
 37

38 **40.240.290 Commercial Events**

39 A. Commercial events include weddings, receptions, indoor concerts, farm dinners, or events similar in size and
 40 activity and must be ((parties and other small scale gatherings that are)) incidental and subordinate to the primary
 41 use on a parcel.

1 B. Commercial events may be allowed in the GMA except on lands designated Open Space or Commercial
2 Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources
3 guidelines:

4 1. The use must be in conjunction with an on-site lawful ((winery,-)) wine or cider sales and/ tasting room,
5 bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for
6 the National Register of Historic Places, it shall be subject to Section 40.240.310 and not the requirements of
7 this section.

8 2. The owner of the subject parcel shall live on the parcel and shall operate and manage the use.

9 3. A single commercial event shall host no more than one hundred (100) guests.

10 4. The use shall comply with the following parking requirements:

11 a. A single commercial event shall include no more than fifty (50) vehicles for guests;

12 b. All parking shall occur on the subject parcel;

13 c. At least two hundred (200) square feet of parking space shall be required for each vehicle;

14 d. Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt,
15 concrete and other imperious materials shall be prohibited; and

16 e. All parking areas shall be fully screened from key viewing areas.

17 5. The owner of the subject parcel may conduct eighteen (18) single events up to one (1) day in length per
18 year.

19 6. The owner of the subject parcel shall notify the reviewing agency and all owners of land within five
20 hundred (500) feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing
21 and shall be sent ((mailed)) at least seven (7) calendar days before an event.

22 7. Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial
23 event may be allowed; provided, that all such structures are erected or placed on the subject parcel no more
24 than two (2) days before the event and removed no more than two (2) days after the event. Alternatively,
25 temporary structures may remain in place for up to ninety (90) days if they are fully screened from key viewing
26 areas.

27 8. The use may be allowed upon demonstration that the following conditions exist to protect any nearby
28 agricultural and forest operations:

29 a. The use would not force a change in or increase the cost of accepted agricultural practices on
30 surrounding lands.

31 b. The use would be set back from any abutting parcel designated Large-Scale or Small-Scale
32 Agriculture, as required in Section 40.240.130 or designated Commercial Forest Land or Large or Small
33 Woodland, as required in Section 40.240.550.

34 c. A declaration has been signed by the landowner and recorded into county deeds and records
35 specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and
36 nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-
37 Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

38 d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest
39 Land, or Large or Small Woodland that is within five hundred (500) feet of the perimeter of the subject
40 parcel on which the use is proposed to be located have been notified and given at least ten (10) days to
41 comment prior to an administrative or examiner's decision.

1 e. Counties may impose additional requirements to address potential impacts to surrounding neighbors.
 2 For example, they may limit noise, lighting and operating hours.

3 f. Land use approvals for commercial events shall not be valid for more than two (2) years.
 4 Landowners must reapply for the use after a land use approval expires.

5 9. A yearly report shall be submitted to the reviewing agency by January 31st reporting on the events held the
 6 previous year. This report shall include the number of events held, how many people were in attendance, and
 7 copies of catering contracts or other vendors used to verify.

8 10. Permits shall not be renewed if there have been past violations, including failure to file.

9 (Amended: Ord. 2006-05-04)

10
 11 **Section 29. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.300, and most recently
 12 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

13
 14 **40.240.300 Signs**

15 A. Signs may be allowed in all zoning districts in the GMA pursuant to the following provisions:

16 1. Except for signs along public highways necessary for public safety, traffic control or road construction
 17 which are consistent with the Manual on Uniform Traffic Control Devices ([2012, or most recent version](#)), the
 18 following signs are prohibited:

- 19 a. Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent
 20 signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light
 21 displays;
- 22 b. New billboards;
- 23 c. Signs with moving elements; and
- 24 d. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the
 25 vehicle.

26 2. Any sign which does not conform with a provision of this section and has existed prior to adoption of the
 27 Management Plan shall be considered nonconforming and subject to the following:

- 28 a. Alteration of existing nonconforming signs shall comply with this section.
- 29 b. Any nonconforming sign used by a business must be brought into conformance concurrent with any
 30 expansion or change in use which requires a development permit.

31 3. All signs shall meet the following guidelines unless they conflict with the Manual on Uniform Traffic
 32 Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in
 33 the Manual on Uniform Traffic Control Devices ([2012, or most recent version](#)) shall supersede these
 34 guidelines.

- 35 a. The support structure shall be unobtrusive and have low visual impact.
- 36 b. Lettering colors with sufficient contrast to provide clear message communication shall be allowed.
 37 Colors of signs shall blend with their setting to the maximum extent practicable.
- 38 c. Backs of all signs shall be unobtrusive, nonreflective, and blend in with the setting.

1 d. Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not
2 permitted for signs.

3 e. In addition to subsections 3.a through 3.d of this section, signs shall meet the below guidelines
4 according to Recreation Intensity Class (and subject to compliance with 40.240.890.D and 40.240.890.E):

5 (i) Recreation Intensity Class 1 (Very Low Intensity) - Simple interpretive signs or displays,
6 not to exceed a total of 50 square feet. Entry name signs, not to exceed 10 square feet per sign.

7 (ii) Recreation Intensity Class 2 (Low Intensity) - Simple interpretive signs and displays, not
8 to exceed a total of 100 square feet. Entry name signs, not to exceed 20 square feet per sign.

9 (iii) Recreation Intensity Class 3 (Moderate Intensity) - Interpretive signs, displays or
10 facilities. Visitor information and environmental education signs, displays, or facilities. Entry
11 name signs, not to exceed 32 square feet per sign.

12 (iv) Recreation Intensity Class 4 (High Intensity) - Entry name signs, not to exceed 40 square
13 feet per sign.

14 f. For recreation facility design projects, signs shall be limited to that necessary to provide relevant
15 recreation or facility information, interpretive information, vehicular and pedestrian direction, and for
16 safety purposes

17 B. Signs in the SMA ((shall-))may be allowed pursuant to the following provisions:

18 1. Prohibited Signs.

19 a. Advertising billboards.

20 b. Signs that move or give the appearance of moving, except signs used for highway construction,
21 warning or safety.

22 c. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the
23 vehicle, except for signs used for highway construction, warning or safety.

24 2. Pre-existing signs are allowed to continue; provided, that no changes occur in size, structure, color, or
25 message.

26 3. New signs ((shall)) may be allowed as specified in the applicable zoning district.

27 4. No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or
28 obstruct the view of any traffic sign, signal, or device.

29 5. Except for signs allowed without review pursuant to Section 40.240.120, all new signs shall meet the
30 following guidelines, and be consistent with the Manual on Uniform Traffic Control Devices (2012, or most
31 recent version):

32 a. Signs shall be maintained in a neat, clean and attractive condition.

33 b. The character and composition of sign materials shall be harmonious with the landscape and ((or))
34 related to and compatible with the main structure upon which the sign is attached.

35 c. Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

36 d. Signs shall be unobtrusive and have low contrast with the setting.

37 e. The visual impact of the support structure shall be minimized.

1 f. Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for,
2 or used as, an advertising display, except for road safety signs.

3 g. Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

4 h. Sign internal illumination or backlighting shall not be permitted except for highway construction,
5 warning or safety.

6 6. Public signs shall meet the following guidelines in addition to subsections (B)(2) through (B)(5) of this
7 section:

8 a. The Graphic Signing System provides design guidelines for public signs in and adjacent to public
9 road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide,
10 and warning signs allowed outright shall conform to the guidelines in this system. Types of signs
11 addressed include recreation site entry, interpretive, specific service signs, destination and distance signs,
12 variable message signs, or signs that bridge or are cantilevered over the road surface.

13 b. Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be
14 consistent with similar purpose signs described in the Graphic Signing System.

15 c. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that
16 required to convey the intended message.

17 7. Signs for public and commercial recreation facilities, home occupations, and commercial uses shall meet
18 the following guidelines in addition to subsections (B)(2) through (B)(5) of this section:

19 a. Any sign advertising or relating to a business which is discontinued for a period of thirty (30)
20 consecutive days shall be presumed to be abandoned and shall be removed within thirty (30) days
21 thereafter, unless permitted otherwise by the jurisdictional authority.

22 b. Any signs relating to, or advertising, a business shall be brought into conformance with these sign
23 guidelines prior to any expansion or change in use which is subject to review.

24 c. Off-site and on-site directional signs on approach roads to recreational facilities may be permitted.
25 Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to
26 achieve the purpose(s) of the facilities.

27 d. Commercial recreation businesses approved in conjunction with a recreational facility may have a
28 name sign not exceeding sixteen (16) square feet.

29 e. Recreation developments may have one (1) on-premises name sign at each principal entrance. Such
30 signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing
31 System.

32 8. Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at
33 parking lots and recreation facilities, shall be reduced.

34 (Amended: Ord. 2006-05-04; Ord. 2008-06-02)

36 **Section 30. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.310, and most recently
37 amended by Sec. 1 (Exh. A) of Ord. 2006-08-21 are each hereby amended as follows:
38

39 **40.240.310 Special Uses in Historic Buildings**

40 Special uses in historic buildings are allowed pursuant to the following:

1 A. For the purposes of this section, "historic buildings" means buildings either on or eligible for the National
 2 Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Section
 3 40.240.310(C)(1)(a).

4 B. Additional Review Uses for Historic Buildings.

5 1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings
 6 included on the National Register of Historic Places ((shall-))may be permitted to hold commercial events,
 7 subject to the guidelines of Sections 40.240.800 through 40.240.900, and Sections 40.240.310(C)(1)(b) through
 8 (e) and 40.240.310(C)(2) through (4).

9 2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings
 10 included on the National Register of Historic Places and which were former restaurants ((and-))or inns ((shall-))
 11 may be permitted to re-establish these former uses, subject to the guidelines of Sections 40.240.800 through
 12 40.240.900, and Sections 40.240.310(C)(1)(b)(1) and (2), (C)(1)(c) through (e), and (C)(2) through (4). The
 13 capacity of restaurant use and overnight accommodation shall be limited to that existing in the former use, and
 14 the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private
 15 parties, and other special events that take place entirely within an approved restaurant facility shall be
 16 considered a restaurant use allowed under this section.

17 3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings
 18 included on the National Register of Historic Places ((shall-))may be permitted to be open for public viewing,
 19 interpretive displays, and an associated gift shop that is no larger than one hundred (100) square feet and
 20 incidental and subordinate to the primary use of the property, subject to the guidelines of Sections 40.240.800
 21 through 40.240.900, and Sections 40.240.310(C)(1)(b)(1) and (2), (C)(1)(c) through (e), and (C)(2) through (4).
 22 Voluntary donations and ((for-)) fees to support maintenance, preservation and enhancement of the cultural
 23 resource may be accepted by the landowner.

24 4. The following additional review uses may be allowed in all GMA land use designations except Open
 25 Space and Agriculture-Special on a property with a building either on or eligible for the National Register of
 26 Historic Places and that was fifty (50) years old or older as of January 1, 2006, subject to the guidelines of
 27 Sections 40.240.800 through 40.240.900, and Section 40.240.310(C):

28 a. Establishments selling food and ((for-)) beverages, limited to historic buildings that originally had
 29 kitchen facilities. The seating capacity of such establishments shall be limited to the building as the
 30 building existed on January 1, 2006, including any decks, terraces, or patios also existing as of that date.
 31 Banquets, private parties, and other special events that take place entirely within approved establishments
 32 selling food and ((for-)) beverages shall be considered part of the approved use.

33 b. Overnight accommodations, and the room capacity of such accommodations shall be limited to the
 34 number of existing rooms in the historic building as of January 1, 2006.

35 c. Commercial events in the building or on the subject property, incidental and subordinate to the
 36 primary use of the property.

37 d. Wineries, and cideries, within a historic building, as the building existed on January 1, 2006, in
 38 conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from
 39 ((grapes)) fruits harvested ((grown)) on the subject parcel ((or-))and the local region, ((within a historic-
 40 building, as the building existed on January 1, 2006)).

41 e. Sales/tasting rooms in conjunction with an on-site winery or cidery, within a historic building, as the
 42 building existed on January 1, 2006.

43 f. Conference ((and-))or retreat facilities within a historic building, as the building existed on January
 44 1, 2006.

45 g. Artists studios and galleries within a historic building, as the building existed on January 1, 2006.

- 1 h. Gift shops within a historic building, as the building existed on January 1, 2006, that are:
- 2 (1) Incidental and subordinate to another approved use included in Section 40.240.310(B)(4); and
- 3 (2) No larger than one hundred (100) square feet.
- 4 i. Interpretative displays, picnic areas or other recreational day use activities on the subject property.
- 5 j. Parking areas on the subject property to support any of the uses in this subsection.

6 5. Uses in subsections (B)(1) and (B)(4)(C) of this section are not subject to the requirements of Section
 7 40.240.290. Commercial events at historic properties are regulated by this section. Applications for commercial
 8 events shall meet the requirements of Section 40.240.310(C)(1)(b)(4). The following apply to commercial
 9 events at historic buildings:

10 a. Commercial events include weddings, receptions, indoor concerts, farm dinners, or events similar in
 11 size and activity and must be ((parties, and other gatherings that are))incidental and subordinate to the
 12 primary use of the parcel.

13 b. The owner of the subject property shall notify the reviewing agency and all owners of land within
 14 five hundred (500) feet of the perimeter of the subject property of each event. The notice shall be in
 15 writing and shall be sent ((mailed)) at least seven (7) calendar days before an event.

16 6. Uses in subsections (B)(3) and (B)(4)(i) are not subject to the parking limits in Section 40.240.890.

17 7. Land use approvals for special uses in historic buildings shall be subject to review by the county((local
 18 government))every five (5) years from the date the original approval was issued. As part of this review, the
 19 applicant shall submit to the responsible official documentation on the progress made in implementing the
 20 protection and enhancement plan required by Section 40.240.310(C)(1)(b). The responsible official shall
 21 submit a copy of such documentation to the State Historic Preservation Officer (SHPO). The SHPO shall have
 22 thirty (30) calendar days from the date this information is ((mailed-))sent to submit written comments to the
 23 responsible official. If the responsible official or examiner's determination contradicts comments from the
 24 SHPO, the responsible official or examiner shall justify how the opposing conclusion was reached. The
 25 responsible official shall revoke the land use approval if the owner has failed to implement the actions
 26 described in the protection and enhancement plan according to the schedule for completing such actions in this
 27 plan. The responsible official, however, may allow such a use to continue for up to one (1) additional year from
 28 the date it is determined that the applicant has failed to implement the actions if the applicant submits a written
 29 statement describing unforeseen circumstances that prevented the applicant from completing the specified
 30 actions according to the approved schedule, what progress the applicant has made towards completing such
 31 actions, and a proposed revised schedule for completing such actions.

32 ((8.—In the event a court enters a judgment that one (1) or more of the use authorizations provided for in
 33 subsections (B)(1) through (B)(4) of this section are invalid, the authorizations for other uses in this subsection
 34 are severed and will remain in effect.))

35 (Amended: Ord. 2006-08-21)

36 C. Additional Resource Protection Standards for Uses in Historic Buildings. The following standards apply to the
 37 proposed uses listed in subsection (B) of this section, in addition to the requirements of Sections 40.240.800 through
 38 40.240.900:

39 1. Cultural Resources.

40 a. All applications for uses listed in Section 40.240.310(B)(4) shall include a historic survey and
 41 evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified
 42 professional hired by the applicant. The evaluation of eligibility shall not be required for buildings
 43 previously determined to be eligible. For such properties, documentation of a prior eligibility
 44 determination shall be included in the application. The historic survey shall meet the requirements

1 specified in "Historic Surveys and Reports" (((Management Plan, page I-58))Part I, Chapter 2: Cultural
2 Resources). The evaluation of eligibility shall follow the process and include all information specified in
3 the National Register Bulletin "*How to Apply the National Register Criteria for Evaluation*" (National
4 Park Service, National Register Bulletin #15). Eligibility determinations shall be made by the responsible
5 official, based on input from the SHPO. The responsible official shall submit a copy of any historic survey
6 and evaluation to the SHPO. The SHPO shall have thirty (30) calendar days from the date this information
7 is ((mailed))sent to submit written comments on the eligibility of the property to the responsible official.
8 If the responsible official or examiner's determination contradicts comments from the SHPO, the
9 responsible official or examiner shall justify how the opposing conclusion was reached.

10 b. Applications for Special Uses for Historic Buildings shall include a protection and enhancement
11 plan which shall include the following:

12 (1) A description of how the proposed use will significantly contribute to the protection and
13 enhancement of the historic resource, including specific actions that will be taken towards restoration,
14 protection and enhancement, and adequate maintenance of the historic resource, and a proposed
15 schedule for completing such actions.

16 (2) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

19 (3) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior
20 alterations to the building associated with the proposed use. Any exterior additions to the building or
21 outdoor components of the proposed use (e.g., parking areas, site for temporary structures, interpretive
22 displays) shall be shown on the use plan.

23 (4) Any proposal for commercial events at a historic property shall include an operation plan for
24 commercial events, to be incorporated into the protection and enhancement plan. The operational plan
25 shall include sufficient information to demonstrate how the commercial events will remain incidental
26 and subordinate to the primary use of the property, and shall, at a minimum, address:

27 (a) Number of events to be held annually;

28 (b) Maximum size of events, including number of guests and vehicles at the proposed
29 parking area;

30 (c) Provisions for temporary structures, including location and type of structures anticipated;
31 and

32 (d) How the proposed commercial events will contribute to protection and enhancement of
33 the historic resource.

34 c. The responsible official shall submit a copy of the protection and enhancement plan to the SHPO.
35 The SHPO shall have thirty (30) calendar days from the date this information is ((mailed))sent to submit
36 written comments to the responsible official. The SHPO shall address consistency of the proposed use
37 with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary
38 of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on
39 the historic resource.

40 d. The proposed use has been determined by the responsible official to have no effect or no adverse
41 effect on the historic character of the property, including features of the property contributing to its
42 historic significance. If the responsible official or examiner's ((final))decision contradicts the comments
43 submitted by the SHPO, the responsible official or examiner shall justify how it reached its opposing
44 conclusion.

1 e. Proposed alterations to the building or surrounding area associated with the proposed use have been
 2 determined by the responsible official to be consistent with the *Secretary of the Interior's Standards for*
 3 *Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of*
 4 *Historic Properties*. If the responsible official or examiner's ((final))decision contradicts the comments
 5 submitted by the SHPO, the responsible official or examiner shall justify how it reached its opposing
 6 conclusion.

7 2. Scenic Resources.

8 a. New parking areas associated with the proposed use shall be located on the subject property as it
 9 existed on January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other
 10 pervious surfaces; asphalt and other impervious materials shall be prohibited.

11 b. New parking areas associated with the proposed use shall be visually subordinate from key viewing
 12 areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to
 13 achieve visual subordinance. New screening vegetation may be used if existing topography and vegetation
 14 are insufficient to help make the parking area visually subordinate from key viewing areas, if such
 15 vegetation would not adversely affect the historic character of the building's setting.

16 c. Temporary structures associated with a commercial event (i.e., tents, canopies, portable restrooms)
 17 shall be placed on the subject property no earlier than two (2) days before the event and removed within
 18 two (2) days after the event. Alternatively, temporary structures may remain in place for up to ninety (90)
 19 days after the event if the responsible official or examiner determines that they will be visually
 20 subordinate from key viewing areas.

21 3. Recreation Resources. The proposed use shall not detract from the use and enjoyment of existing
 22 recreation resources on nearby lands.

23 4. Agricultural and Forest Lands.

24 a. The proposed use is compatible with and will not interfere with accepted forest or agricultural
 25 practices on nearby lands devoted to such uses.

26 b. The proposed use will be sited to minimize the loss of land suitable for production of crops,
 27 livestock, or forest products.

28 c. A declaration has been signed by the landowner and recorded into county deeds and records
 29 specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent
 30 and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated
 31 Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small
 32 Woodland.

33 d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special,
 34 Commercial Forest Land, or Large or Small Woodland that are within five hundred (500) feet of the
 35 perimeter of the subject property on which the use is proposed to be located have been notified and given
 36 at least ten (10) days to comment prior to an administrative or examiner's decision on an application for a
 37 special use for a historic building.

38 (Amended: Ord. 2006-05-04)

40 **Section 31. New.** A new Section CCC 40.240.320 is hereby adopted as follows:

42 **40.240.320 Renewable Energy Production**

43 A. Production of electrical power, including, but not limited to wind and solar production, for commercial
 44 purposes is considered an industrial use and is prohibited.

B. Solar and wind power generation that is accessory to a primary structure or allowed use is not considered an industrial use and may be permitted provided that the capacity for power generation is limited to the expected annual electrical power need of the structure or use. The generating equipment may serve only the parcel on which it is located, or an adjacent parcel in the same ownership and used in conjunction with the subject parcel. Sale of power back to the electrical grid is permitted, provided that it is an occasional event, not ongoing over the course of the year.

C. Equipment attached to an existing structure is an addition to the structure on which it is located.

D. Free-standing equipment is a new accessory structure.

Section 32. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.370, and most recently amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

ARTICLE IV. LAND DIVISIONS AND LOT LINE ADJUSTMENTS

40.240.370 Land Divisions ((and Cluster Development))

A. New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.

B. New land divisions (~~(shall)~~) may be permitted in the GMA if the following are met:

1. Proposed land divisions comply with Chapter 40.510 and the procedural requirements of Chapters 40.520 and 40.540. Divisions of land resulting in four (4) or fewer lots shall be reviewed under the procedures of Sections 40.540.030 and 40.510.020. Divisions of land resulting in five (5) or more lots shall be reviewed under the procedures of Sections 40.540.040 and 40.510.030.

2. Lots resulting from such proposed land divisions shall comply with all applicable provisions of this chapter, including minimum specified lot sizes and associated zoning maps.

C. Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines of this chapter.

D. At the time of creation of one (1) or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

E. Land divisions shall be limited in deer and elk winter range and turkey habitat as outlined in 40.240.470 and 40.240.570.

((E. Where authorized in Sections 40.240.430(A)(20), 40.240.510(A)(19), and 40.240.650(F) a land division in the GMA may create parcels smaller than the designated minimum size and may include a bonus, as specified under Section 40.240.370(G), in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the local government must find that clustering new dwellings will provide a siting opportunity not available through conventional parcel by parcel development. These opportunities include siting the new dwellings to:

1. Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas;

2. Avoid significant landscape features;

3. Protect the existing character of the landscape setting;

~~4. Reduce interference with movement of deer or elk in winter range;~~

- 1 5. ~~Avoid areas of known cultural resources;~~
- 2 6. ~~Consolidate road access, septic drainfields, or other development features to reduce impacts associated~~
3 ~~with grading or ground disturbance;~~
- 4 7. ~~Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or~~
5 ~~other natural resources; and~~
- 6 8. ~~Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster~~
7 ~~development.~~

8 F. ~~In the GMA, following cluster development, there may be no further division of any resulting parcel for~~
9 ~~residential purposes until the subject parcel is included within the boundary of an urban area. The local government~~
10 ~~shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development~~
11 ~~may be smaller than one (1) acre in a five (5) acre Residential or ten (10) acre Residential designation or two (2)~~
12 ~~acres in a Small Scale Agriculture or Small Woodland designation.~~

13 G. ~~In the GMA, cluster development may create up to twenty-five percent (25%) more parcels than otherwise~~
14 ~~allowed by the minimum parcel size on lands designated five (5) acre Residential or ten (10) acre Residential and up~~
15 ~~to fifty percent (50%) more on lands designated Small Scale Agriculture or Small Woodland. Any division in a~~
16 ~~cluster development under this guideline may create at least one (1) additional parcel.~~

17 H. ~~In the GMA, at least seventy-five percent (75%) of land subject to a cluster development shall be permanently~~
18 ~~protected as undeveloped land.~~

19 I. ~~In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and~~
20 ~~redivided to take advantage of cluster development bonuses.)~~

21 (Amended: Ord. 2006-05-04)

23 **Section 33. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.380, and most recently
24 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

26 **40.240.380 Lot Line Adjustments**

27 A. The following guidelines shall apply to lot line adjustments in the GMA:

28 1. Lot line adjustments for parcels in all land use designations except Open Space, Commercial, Public
29 Recreation, or Commercial Recreation shall comply with the following standards:

30 a. The lot line adjustment shall not result in the creation of any new parcel(s).

31 b. The lot line adjustment shall not result in the potential to create a new parcel(s) or residential
32 development in excess of the maximum density allowed by the land use designation(s) for the affected
33 parcels.

34 c. The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel
35 size before the lot line adjustment to become less than the minimum parcel size after the lot line
36 adjustment, except to allow a public or nonprofit entity to acquire land for the purpose of protecting and
37 enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be
38 protected by a conservation easement or other similar property restriction that precludes future land
39 divisions and development.

40 d. The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be
41 reduced in size, except to accomplish one of the following purposes:

- (1) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or setback requirements; provided, that (a) the parcel to be enlarged would not become eligible for a subsequent land division, and (b) the amount of land transferred would be the minimum necessary to resolve the issue.
 - (2) Allow a public or nonprofit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

e. The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

f. The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

g. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

2. Lot line adjustments for parcels designated Open Space shall comply with the following standards:

a. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. There is no specified minimum parcel size for parcels designated Open Space.

b. The lot line adjustment shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

3. Lot line adjustments for parcels designated Commercial shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

4. Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall comply with the following standards:

a. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. There are no specified minimum parcel sizes for parcels designated Public Recreation or Commercial Recreation.

b. The lot line adjustment shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

(Amended: Ord. 2008-06-02)

B. The following guidelines shall apply to lot line adjustments in the SMA:

1. The proposed lot line adjustment shall not result in the creation of any new parcel(s).

2. A lot line adjustment shall not result in a parcel greater than or equal to forty (40) acres with a dwelling, becoming less than forty (40) acres.

3. A lot line adjustment shall not result in a parcel less than forty (40) acres becoming forty (40) acres or greater.

4. A parcel that is smaller than forty (40) acres shall not be reduced in size, except to accomplish one of the following purposes:

1 a. Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet
 2 buffer or setback requirements; provided, that (1) the parcel to be enlarged would not become forty (40)
 3 acres or greater, and (2) the amount of land transferred would be the minimum necessary to resolve the
 4 issue.

5 b. Allow a public or nonprofit entity to acquire land for the purpose of protecting and enhancing
 6 scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected
 7 by a conservation easement or other similar property restriction that precludes residential development.

8 5. The lot line adjustment shall not cause previously approved parcels or development to violate conditions
 9 of approval or become out of compliance or further out of compliance with existing land use and resource
 10 protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

11 6. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource
 12 protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

13 (Amended: Ord. 2006-05-04; Ord. 2008-06-02)

15 **Section 34. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.390, and most recently
 16 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

18 **40.240.390 Consolidation of Lots**

19 A. A unit of land shall be consolidated with adjacent lands in the same ownership if the unit of land:

20 1. Is smaller than the current minimum parcel size;

21 2. Is located within a final subdivision, division of land created by record of survey, or division of land
 22 created by other means of greater than four (4) lots; and

23 3. Is older than five (5) years from the date of filing.

24 B. No portion of a consolidated plat shall be considered a separate parcel solely because an existing parcel
 25 overlays, and possibly fragments, that consolidated subdivision.

26 C. Section 40.240.390(A) shall not be applied to consolidate two (2) or more units of land where each unit of
 27 land is developed with a dwelling that qualifies as an existing use or is subject to a fully complete application to
 28 develop a dwelling. One (1) or more undeveloped units of land shall be consolidated with one (1) or more developed
 29 units of land.

30 (Amended: Ord. 2006-05-04)

32 **Section 35. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.430, and most recently
 33 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

35 **40.240.430 Review Uses – Agricultural Land**

36 A. The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture pursuant to
 37 compliance with Sections 40.240.800 through 40.240.900:

38 1. New cultivation, pursuant to compliance with Sections 40.240.820 through 40.240.870, and upon
 39 demonstration that the landowner has sufficient water to support the use.

- 1 2. Agricultural structures, ((except buildings)), in conjunction with agricultural use including new cultivation.
- 3 3. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
4 agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant
5 to Section 40.240.200.
- 6 4. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible
7 for the expedited development review process, or allowed in subsections (A)(5) and (6) of this section.
- 8 5. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
9 height for a dwelling on any legal parcel less than or equal to (ten) 10 acres in size are subject to the following
10 additional standards:
- 11 a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand
12 five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a
13 parcel, including buildings allowed without review, existing buildings and proposed buildings.
- 14 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 15 6. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
16 height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional
17 standards:
- 18 a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand
19 five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a
20 parcel, including buildings allowed without review, existing buildings and proposed buildings.
- 21 b. The footprint of any individual accessory building shall not exceed one thousand five hundred
22 (1,500) square feet.
- 23 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 24 7. The temporary use of a ((mobile))manufactured home, tiny house on a trailer, or similar structure in the
25 case of a family hardship, subject to Section 40.240.210.
- 26 8. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural
27 use, upon a demonstration that all of the following conditions exist:
- 28 a. The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no
29 other dwellings that are vacant or currently occupied by persons not directly engaged in farming or
30 working on the subject farm or ranch and that could be used as the principal agricultural dwelling; and
- 31 b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use,
32 where the day-to-day activities of one (1) or more residents of the agricultural dwelling will be principally
33 directed to the agricultural use of the land. Current use includes a minimum area which would satisfy
34 Section 40.240.430(A)(8)(c)(4); and
- 35 c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the
36 following factors:
- 37 (1) Size of the entire farm or ranch, including all land in the same ownership;
- 38 (2) Type(s) of agricultural uses (crops, livestock) and acreage;
- 39 (3) Operational requirements for the particular agricultural use that are common to other
40 agricultural operations in the area; and

(4) **Annual income**. The farm or ranch, and all its constituent parcels, **produce at least \$80,000 in gross annual income in 2020 dollars.** This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year. This determination shall be made using the following formula:

$$(A)(B)(C) = I \quad \text{where:}$$

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = ((Income capability)) Annual income

9. On lands zoned Gorge Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

10. On lands zoned Gorge Small-Scale Agriculture, a single-family dwelling on any legally created and existing parcel.

11. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative; provided, that all of the following conditions exist:

- a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. "Relative" means grandparent, grandchild, parent, child, brother or sister;
 - b. The dwelling would be located on the same parcel as the dwelling of the principal operator; and
 - c. The operation is a commercial enterprise as determined by Section 40.240.430(A)(8)(c).

((12. Construction, reconstruction or modifications of roads not in conjunction agriculture-))

12(3)). Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) (and) or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

13((4)). Towers and fire stations for forest fire protection.

14((5)). Agricultural labor housing upon a showing that:

- a. The proposed housing is necessary and accessory to a current agricultural use;
 - b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months; and
 - c. The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

1 15((6)). On lands designated Gorge Large-Scale Agriculture, on a parcel which was legally created and
 2 existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a
 3 demonstration that all of the following conditions exist:

- 4 a. The dwelling will not force a change in or increase the cost of accepted agricultural practices on
 surrounding lands;
- 6 b. The subject parcel is predominantly unsuitable for the production of farm crops and livestock,
 considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether
 a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the
 subject parcel to be utilized in conjunction with other agricultural operations in the area;
- 10 c. The dwelling shall be set back from any abutting parcel designated Gorge Large-Scale or Small-
 Scale Agriculture, as required in Section 40.240.130(A) or any abutting parcels zoned Gorge Large or
 Small Woodland, as required in Section 40.240.140(A);
- 13 d. A declaration has been signed by the landowner and recorded into county deeds and records
 specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent
 and nearby operators are entitled to carry on accepted agriculture or forest practices on lands zoned Gorge
 Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland; and
- 17 e. All owners of land in areas zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small
 Woodland, within five hundred (500) feet of the perimeter of the subject parcel on which the dwelling is
 proposed to be located have been notified and given at least ten (10) days to comment prior to an
 administrative or examiner's decision.

21 16.((7. On parcels in Small Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, pursuant to Section 40.240.370. If the designated minimum parcel size is twenty (20) acres, this provision will apply to parcels forty (40) acres in size or larger. Similarly, if the designated minimum parcel size is forty (40), eighty (80), or one hundred sixty (160) acres, this provision will apply to parcels eighty (80) acres or larger, one hundred sixty (160) acres or larger, or three hundred twenty (320) acres or larger, respectively.))

27 17.((8. Life estates, pursuant to Section 40.240.450.

28 18.((9. Land divisions, subject to Section 40.240.370.

29 19.((20. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, pursuant to Section 40.240.380.

31 20.((4)). Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

33 21.((2)). Docks and boathouses, pursuant to Section 40.240.230.

34 22.((3)). Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

36 23.((4)). Commercial events, pursuant to Section 40.240.290.

37 24.((5)). Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

1 B. The following uses may be allowed on lands zoned Gorge SMA Agriculture, pursuant to compliance with
 2 Sections 40.240.800 through 40.240.900. The use or development shall be sited to minimize the loss of land suitable
 3 for the production of agricultural crops or livestock:

4 1. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or
 5 areas. Clearing trees for new agricultural use is subject to the additional requirements of Section
 6 40.240.510(B)(24).

7 2. Forest uses and practices as allowed in Section 40.240.510(B)(25).

8 3. A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of
 9 the following conditions exist:

10 a. The proposed dwelling would be the only dwelling on the subject farm or ranch, including
 11 contiguous lots/parcels.

12 b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use,
 13 where the day-to-day activities of one (1) or more residents of the dwelling will be principally directed to
 14 the agricultural use of the land. The farm or ranch must currently satisfy the guideline in Section
 15 40.240.430(B)(3)(c)(4).

16 c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the
 17 following criteria:

18 (1) Size of the entire farm or ranch, including all land in the same ownership.

19 (2) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

20 (3) Operational requirements for the particular agricultural use that are common to other
 21 agricultural operations in the area.

22 (4) ((Income Capability)) Average income The farm or ranch, and all its contiguous parcels, must
 23 produce at least \$80,000 in gross annual income in 2020 dollars. This gross annual income amount
 24 shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau
 25 of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars)
 26 will be posted on the Gorge Commission website by January 15 of each year. ((must be capable of
 27 producing at least forty thousand dollars (\$40,000) in gross annual income.)) This determination can be
 28 made using the following formula((with periodic adjustments for inflation)):

(A)(B)(C) = I where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the
 subject farm or ranch

I = ((Income capability))Average income

29 d. Minimum parcel size of forty (40) contiguous acres.

31 4. Farm labor housing on a parcel with an existing dwelling under the following conditions:

32 a. The proposed housing is necessary and accessory to a current agricultural use and a showing that the
 33 operation is a commercial agricultural enterprise as determined by Section 40.240.430(B)(3)(c).

34 b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary for
 35 the current agricultural use. Seasonal use shall not exceed nine (9) months.

- 1 c. The housing shall be located to minimize the conversion of lands capable of production of farm
2 crops and livestock and shall not force a significant change in or significantly increase the cost of accepted
3 agricultural uses employed on nearby lands devoted to agricultural use.
- 4 5. Agricultural structures, except buildings, in conjunction with agricultural use.
- 5 6. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
6 agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant
7 to Section 40.240.200.
- 8 7. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible
9 for the expedited development review process, or allowed in subsections (B)(8) and (B)(9) of this section.
- 10 8. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
11 height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject to the following
12 additional standards.
- 13 a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand
14 five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a
15 parcel, including buildings allowed without review, existing buildings and proposed buildings.
- 16 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 17 9. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
18 height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional
19 standards:
- 20 a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand
21 five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a
22 parcel, including buildings allowed without review, existing buildings and proposed buildings.
- 23 b. The footprint of any individual accessory building shall not exceed one thousand five hundred
24 (1,500) square feet.
- 25 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 26 10. Home occupations pursuant to Section 40.240.240. The use or development shall be compatible with
27 agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- 28 11. Bed and breakfast inns subject to Section 40.240.250. The use or development shall be compatible with
29 agricultural use. Buffer zones should be considered to agricultural practices from conflicting uses.
- 30 12. Fruit ((stands-))and produce stands-((upon a showing that sales will be limited to products raised on the-
31 property and other agriculture properties in the local region.))
- 32 13. Aquaculture.
- 33 14. Exploration, development, and production of sand, gravel, and crushed rock as defined by Section
34 40.240.040, for the construction, maintenance, or reconstruction of roads used to manage or harvest
35 commercial forest products on lands with SMAs pursuant to Sections 40.240.010(B) and 40.240.285((800)),
36 and all applicable federal, state and county standards.
- 37 15. Utility facilities necessary for public service upon a showing that:
- 38 a. There is no alternative location with less adverse effect on agriculture lands.
- 39 b. The size is the minimum necessary to provide the service.

16. Temporary asphalt/batch plant operations related to public road projects, not to exceed six (6) months.
 17. Community facilities and nonprofit facilities related to agricultural resource management.
 18. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~or~~ natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) ~~((and/))~~ or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
 19. Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
 20. Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 40.240.900.
 21. Road and railroad construction and reconstruction.
 22. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.
 23. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a ~~((mobile))~~ manufactured home or dwelling structure in the case of a family hardship, pursuant to Section 40.240.210.
 24. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.
 25. Docks and boathouses, pursuant to Section 40.240.230.
 26. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.
 27. Disposal sites managed and operated by the Washington State Department of Transportation or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, pursuant to Section 40.240.280.
 28. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

Section 36. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.440, and most recently amended by Sec. 2 of Ord. 2020-02-13 are each hereby amended as follows:

Designations
The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture, subject to compliance with Sections 40.240.800 through 40.240.900, consistent with Section 40.240.460:

A. A Construction, reconstruction, or modification of roads, ((U)utility facilities, and railroads necessary for public service upon a showing that:

- 1 1. There is no practicable alternative location with less adverse effect on agricultural or forest lands; and
 - 2 2. The size is the minimum necessary to provide the service.
- 3 B. Home occupations in existing residential or accessory structures, subject to Section 40.240.240.
- 4 C. Fruit and produce stands(~~((, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.))~~)
- 5
- 6 D. Wineries and cideries, in conjunction with an on-site vineyard or orchard((viticulture)), upon a showing that processing ~~((and sales))~~ of wine or cider is from ~~((grapes))~~fruits harvested~~((grown))~~ on the subject farm ~~((or in))~~and the local region.
- 7
- 8
- 9 E. Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.
- 10 F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- 11
- 12 G. Exploration of mineral and geothermal resources subject to Section 40.240.~~285((800))~~ and all other applicable federal, state and county standards.
- 13
- 14 H. Development and production of mineral and geothermal resources, as defined by Section 40.240.040, and pursuant to Section 40.240.~~285((800))~~ and all other applicable federal, state and county standards, including those of Section 40.250.022. Type III review procedures specified under Section 40.510.030 shall be required.
- 15
- 16
- 17 I. Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.
- 18
- 19
- 20
- 21 J. Agriculture.
- 22
- 23 K. Recreation development, subject to the recreation Intensity Class provisions pursuant to Section 40.240.890.
- 24
- 25 L. Boarding of horses, pursuant to Section 40.240.205.
- 26
- 27 M. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.
- 28
- 29 N. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.250 and provided that the residence:
- 30
- 27 1. Is included in the National Register of Historic Places; or
 - 28 2. Is listed on the Washington Heritage ((State))Register (~~((of Historic Places))~~maintained by the Washington State ~~((Office-))~~Department of Archaeology and Historic Preservation.
- 31
- 32 O. Nonprofit, environmental learning or research facilities.
- 33
- 34 P. Expansion of existing schools or places of worship.
- 35
- 36 Q. On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to Section 40.240.260.
- 37
- 38 R. Disposal sites managed and operated by the Washington State Department of Transportation, for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, pursuant to Section 40.240.280.
- 39
- 40 S. Special uses in historic buildings, pursuant to Section 40.240.310.

1 (Amended: Ord. 2006-05-04; Ord. 2020-02-13)

3 **Section 37. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.470, and most recently
 4 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

6 **40.240.470 Dimensional Standards**

7 The following dimensional standard provisions shall apply to lands zoned Gorge Large-Scale or Small-Scale
 8 Agriculture, or Gorge SMA Agriculture unless otherwise noted herein. In the event of conflict between other Title
 9 40 chapters and this chapter, the provisions of this chapter shall prevail.

10 A. All new land divisions shall comply with Section 40.240.370 and all applicable county regulations. Newly
 11 created lots shall comply with the following minimum lot size requirements:

12 1. Gorge Large-Scale Agriculture 80 (GLSA-80), eighty (80) acres.

13 2. Gorge Large-Scale Agriculture 40 (GLSA-40), forty (40) acres.

14 3. Gorge Small-Scale Agriculture (GSA), twenty (20) acres, except as provided in 40.240.A.5.

15 4. Gorge SMA Agriculture (GSA), forty (40) acres for a new residence. New land divisions s shall be
 16 permitted in the SMA only when the creation of new parcels facilitates federal acquisition of lands to achieve
 17 the policies of the overall Management Plan.

18 5. On lands designated Large-Scale or Small-Scale Agriculture that include deer and elk winter range or
 19 turkey habitat, new parcels shall be 40 acres or larger.

20 B. Minimum lot width of six hundred sixty (660) feet for newly created lots.

21 C. No minimum lot depth requirement.

22 D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road
 23 easement.

24 E. Minimum side setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet for
 25 nonresidential buildings.

26 F. Minimum street side setback of twenty-five (25) feet for all buildings.

27 G. Minimum rear setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet for
 28 nonresidential buildings.

29 H. Setbacks shall also comply with provisions of Sections 40.240.130 and 40.240.150.

30 I. Maximum height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic
 31 review criteria of Section 40.240.800 or 40.240.810.

32 J. Where larger setbacks are not required by Section 40.240.130, parcels which are nonconforming as to
 33 minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet from all property
 34 lines except side setbacks adjacent to streets, which may observe building setbacks of twenty-five (25) feet.

35 (Amended: Ord. 2006-05-04)

37 **Section 38. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.510, and most recently
 38 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

1
2 **40.240.510 Review Uses – Forest Land**

3 A. The following uses may be allowed on lands zoned Gorge Small Woodland subject to compliance with
4 Sections 40.240.800 through 40.240.900:

5 1. ((On lands designated Gorge Small Woodland, or))One (1) single-family dwelling on a legally created and
6 existing parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a
7 parcel cannot qualify, a parcel is entitled to one (1) single-family dwelling. In either case, the location of a
8 dwelling shall comply with Sections 40.240.140 and 40.240.540. A declaration shall be signed by the
9 landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns
10 of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or
11 forest practices on lands designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture.

12 2. One (1) single-family dwelling if shown to be in conjunction with and substantially contribute to the
13 current agricultural use of a farm pursuant to Section 40.240.430(A)(8). The siting of the dwelling shall comply
14 with Section 40.240.540.

15 3. Temporary on-site structures which are auxiliary to and used during the term of a particular forest
16 operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly
17 associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site,
18 temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting.
19 An auxiliary use is removed when the particular forest practice for which it was approved has concluded.

20 4. Temporary portable facilities for the primary processing of forest products grown on a parcel or
21 contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon
22 completion of the harvest operation.

23 5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ((or)) natural
24 resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders,
25 sediment barriers) ((and)) or activities (e.g., closing and revegetating unused roads, recontouring abandoned
26 quarries).

27 6. Structures associated with hunting and fishing operations.

28 7. Towers and fire stations for forest fire protection.

29 ((8. Agricultural structures, except buildings, in conjunction with an agricultural use, pursuant to Section
30 40.240.540.))

31 8((9)). Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
32 agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant
33 to Sections 40.240.200 and 40.240.540.

34 9((10)). Accessory structures for an existing or approved dwelling that are not otherwise allowed outright,
35 eligible for the expedited development review process, or allowed in subsections (A)(11) or (12) of this section.

36 10((4)). Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet
37 in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are pursuant to Sections
38 40.240.540 and 40.240.550, and the following additional standards:

39 a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand
40 five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a
41 parcel, including buildings allowed without review, existing buildings and proposed buildings.

42 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

1 1(2)). Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet
 2 in height for a dwelling on any legal parcel larger than ten (10) acres in size are pursuant to Sections
 3 40.240.540 and 40.240.550 and the following additional standards:

- 4 a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand
 5 five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a
 6 parcel, including buildings allowed without review, existing buildings and proposed buildings.
- 7 b. The footprint of any individual accessory building shall not exceed one thousand five hundred
 8 (1,500) square feet.
- 9 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

10 1(3)). The temporary use of a ((mobile))manufactured home, tiny house on a trailer, or similar structure
 11 in the case of a family hardship, subject to Sections 40.240.210, 40.240.540 and 40.240.550.

12 1(4)). A second single-family dwelling for a farm operator's relative, subject to Sections 40.240.140,
 13 40.240.430(A)(9) and 40.240.540.

14 15. Private roads serving a residence on the subject parcel, subject to Sections 40.240.140 and 40.240.540.

15 16. Recreation development, subject to Section 40.240.890 and the Recreation Development Plan
 16 (Management Plan, Part III, Chapter 1).

17 ((17. Construction or reconstruction of roads or modifications not in conjunction with forest use or
 18 practices.))

19 1((8)). Agricultural labor housing upon a showing that:

- 20 a. The proposed housing is necessary and accessory to a current agricultural use on the subject farm.
- 21 b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to
 22 the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine (9) months.
- 23 c. The housing shall be located to minimize the conversion of lands capable of production of farm
 24 crops and livestock and will not force a significant change in or significantly increase the cost of accepted
 25 agricultural practices employed on nearby lands devoted to agricultural use.
- 26 d. The housing is subject to the criteria in 40.240.550 and 40.240.540.

27 ((19. On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum
 28 parcel size, pursuant to Section 40.240.370. If the designated minimum parcel size is twenty (20) acres, this
 29 provision will apply to parcels forty (40) acres in size or larger. Similarly, if the designated minimum parcel
 30 size is forty (40) or eighty (80) acres, this provision will apply to parcels eighty (80) acres or larger or one
 31 hundred sixty (160) acres or larger, respectively.))

32 20. New cultivation, subject to compliance with Sections 40.240.820, and 40.240.840 through 40.240.870.

33 21. Agricultural structures, except buildings, in conjunction with agricultural use, including new cultivation,
 34 subject to the "Approval Criteria for Fire Protection" in this chapter.

35 22. Life estates on lands Gorge Small Woodland, pursuant to Section 40.240.560.

36 23((2)). Land divisions, subject to Section 40.240.370((B)(1)).

37 24((3)). Placement of structures necessary for continued public safety and the protection of private property
 38 and essential public services damaged during an emergency/disaster event. This includes the replacement of
 39 temporary structures erected during such events with permanent structures performing an identical or related

1 function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster
2 event.

3 25((4)). Lot line adjustments that would result in the potential to create additional parcels through
4 subsequent land divisions, pursuant to Section 40.240.380.

5 26((5)). Additions to existing buildings greater than two hundred (200) square feet in area or greater than
6 the height of the existing building.

7 a. Docks and boathouses, pursuant to Section 40.240.230.

8 b. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks
9 and fuel tanks.

10 c. Commercial events on lands designated Large Woodland or Small Woodland, pursuant to Section
11 40.240.290.

12 B. The following uses may be allowed on lands zoned Gorge SMA Forest pursuant to Sections 40.240.800
13 through 40.240.900. The use or development will be sited to minimize the loss of land suitable for the production of
14 forest products:

15 1. Any use listed in Section 40.240.430(B).

16 2. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or
17 areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (B)(24) of
18 this section.

19 3. Railroad and road construction or reconstruction.

20 4. Exploration, development, and production of sand, gravel, or crushed rock, as defined in Section
21 40.240.040, for the construction, maintenance, or reconstruction of roads used to manage or harvest
22 commercial forest products in the SMAs, pursuant to Sections 40.240.285((800)) and 40.250.022, and all other
23 applicable federal, state and county standards.

24 5. Silvicultural nurseries.

25 6. Utility facilities for public service upon a finding that:

26 a. There is no alternative location with less adverse effect on forest land; and

27 b. The size is the minimum necessary to provide the service.

28 7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~or~~ natural
29 resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders,
30 sediment barriers) ((and)) or activities (e.g., closing and revegetating unused roads, recontouring abandoned
31 quarries).

32 8. Fish hatcheries and agricultural facilities.

33 9. Public recreation, commercial recreation, interpretive and educational developments and uses consistent
34 with Section 40.240.810.

35 10. One (1) single-family dwelling on a parcel of forty (40) contiguous acres or larger if an approved forest
36 management plan demonstrates that such dwelling is necessary for and accessory to forest uses. The forest
37 management plan shall demonstrate the following:

38 a. The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The
39 principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and

1 effective management. This requirement shall indicate a relationship between ongoing forest management
2 and the need for dwelling on the subject property.

3 b. The subject parcel ((has been)) is enrolled in the state's forest assessment program.

4 c. A plan for management of the parcel ((has been))is approved by the Washington Department of
5 Natural Resources and the responsible official or examiner. The plan must indicate the condition and
6 productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting,
7 etc.); a chronological description of when the operations will occur, estimates of yield, labor, and
8 expenses; and how the dwelling will contribute towards the successful management of the property.

9 d. The parcel has ((There are))no other dwellings ((on the parcel))that are vacant or currently
10 occupied by persons not engaged in forest management of the subject parcel.

11 e. The dwelling complies with all applicable building code and fire protection guidelines.

12 f. A declaration ((has been))is signed by the landowner and recorded into county deeds and records
13 specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent
14 and nearby operations are entitled to carry on accepted agricultural or forest practices.

15 11. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright,
16 eligible for the expedited development review process, or allowed in subsections (B)(12) or (13) of this section.

17 12. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
18 height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject to the following
19 additional standards.

20 a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand
21 five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a
22 parcel, including buildings allowed without review, existing buildings and proposed buildings.

23 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

24 13. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in
25 height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional
26 standards:

27 a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand
28 five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a
29 parcel, including buildings allowed without review, existing buildings and proposed buildings.

30 b. The footprint of any individual accessory building shall not exceed one thousand five hundred
31 (1,500) square feet.

32 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

33 14. Home occupations pursuant to Section 40.240.240.

34 15. Temporary portable facility for the processing of forest products.

35 16. Towers and fire stations for forest fire protection.

36 17. Community facilities and nonprofit facilities related to forest resource management.

37 18. Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for
38 the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be
39 prohibited.

- 1 19. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a ((mobile-))
2 manufactured home or dwelling structure in the case of a family hardship pursuant to Section 40.240.210.
- 3 20. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the
4 height of the existing building.
- 5 21. Docks and boathouses, pursuant to Section 40.240.230.
- 6 22. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and
7 fuel tanks.
- 8 23. Disposal sites managed and operated by the Washington State Department of Transportation, or a Gorge
9 county public works department for earth materials and any intermixed vegetation generated by routine or
10 emergency/disaster public road maintenance activities within the National Scenic Area, subject to compliance
11 with Section 40.240.280.
- 12 24. Clearing trees for new agricultural use with the following steps and subject to the following additional
13 guidelines:
- 14 a. A stewardship plan pursuant to Section 40.240.510(B)(25)(c) shall be submitted and deemed
15 complete by the responsible official and submitted to the Forest Service for review.
- 16 b. Clearing trees for new agricultural use shall be limited to fifteen (15) acres.
- 17 c. If the stewardship plan proves that the above guideline is detrimental to the proposed agricultural
18 use, the final size of the clearing shall be determined by the application of subsection (B)(24)(d) of this
19 section and pursuant to subsection (B)(24)(i) of this section.
- 20 d. After a thirty (30) day public comment period, the Forest Service shall review the stewardship plan
21 using the following criteria:
- 22 (1) Scenic Resource guidelines in Sections 40.240.510(B)(25)(d)(1) and (5).
- 23 (2) Applicable guidelines of Sections 40.240.800 through 40.240.900.
- 24 (3) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that
25 soils are suitable for the proposed agricultural use. The woodland management tables shall be used as
26 part of the analysis of suitability for both agricultural and forest uses.
- 27 (4) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall
28 blend with the surrounding landscape pattern either because the existing pattern includes agricultural
29 openings or because the new agricultural opening is designed to appear natural.
- 30 e. The Forest Service shall send the review statement to the responsible official. The Forest Service
31 shall state whether or not the new agricultural use should proceed including any conditions that are
32 recommended to be required by the responsible official or examiner.
- 33 f. The responsible official will accept an application for new agricultural use on forested lands after
34 receipt of a positive review statement from the Forest Service.
- 35 g. The forest practice portion of the new agricultural use shall not be approved by the State Forestry
36 Department. ((or)) responsible official or examiner until an administrative or examiner's decision on the
37 new agricultural use is issued by the responsible official or examiner.
- 38 h. The new agricultural use shall be operational within two (2) years of the time frame described in the
39 approved stewardship plan.

1 i. New agricultural uses with an approved stewardship plan requiring more than fifteen (15) acres shall
2 attain the final approved size sequentially. After the first fifteen (15) cleared acres are operational, each
3 subsequent clearing shall not occur until the previous clearing is operational.

4 25. Forest practices in accordance with an approved forest practices application (see Section 40.240.050),
5 and pursuant to Section 40.240.570.

6 a. The following information, in addition to general site plan requirements in Section 40.240.050, shall
7 be required:

8 (1) Delineate the following on a recent aerial photo or detailed map:

9 (a) The size, shape, and exact location of the proposed treatment area including any clumps
10 of leave trees to remain. If more than one silvicultural prescription is to be used, code each on
11 the photo;

12 (b) Other important natural features of the subject parcel such as steep areas, streams,
13 wetlands, rock outcrops, etc.;

14 (c) Road and structure construction ((and/))or reconstruction location;

15 (d) Location of proposed rock or aggregate sources;

16 (e) Major skid trails, landings, and yarding corridors;

17 (f) Commercial firewood cutting areas; and

18 (g) Protection measures for scenic, cultural, natural, and recreation resources, such as road
19 closures.

20 (2) A description of the existing forest in terms of species, ages, sizes, landscape pattern (including
21 how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

22 (3) A description of how the forest practice will fit into the existing landscape pattern and how it
23 will meet scenic and natural resource standards in Sections 40.240.510(B)(25)(d) and (e).

24 (4) Written silvicultural prescriptions with projected post-treatment forest condition specified in
25 terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape
26 pattern) and canopy closure for all canopy layers.

27 (5) Road and structure construction ((and/))or reconstruction design.

28 (6) Existing and proposed rock pit development plans.

29 (7) A discussion of slash disposal methods.

30 (8) A reforestation plan as reviewed by the appropriate state forest practices agency.

31 b. As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or
32 removed (whichever makes the most sense), and areas for placing fill or removing material in preparation
33 for a field visit by the reviewer.

34 c. Stewardship Plan Requirements. The following information, in addition to the applicable portions of
35 the forest practice application requirements above, and general site plan requirements shall be provided:

36 (1) An outline of the long-term goals, proposed operations, and future sustainability of the subject
37 parcel.

38 (2) A description of the time frame and steps planned to reach the long-term goals.

1 (3) For forest practices, describe how the proposed activities fit into the long-term goals and
2 sustainability of the parcel and ~~(for)~~ forest health. The following shall be addressed:

- 3 (a) The range of natural conditions expected in the forest in terms of tree species, structure,
4 and landscape pattern;
- 5 (b) What the resulting tree species, structure, and landscape pattern will be after the proposed
6 activities;
- 7 (c) A clear explanation of how a deviation from the applicable guidelines may better achieve
8 forest health objectives; and
- 9 (d) A clear explanation of how and why the proposed activities will ~~(lead)~~ move the forest
10 towards its range of natural viability and result in reaching sustainability, resiliency to
11 disturbances.

12 (4) For clearing trees for new agricultural use, the following shall be addressed in addition to
13 Sections 40.240.510(B)(25)(c)(1) and (2):

- 14 (a) How each NRCS soil unit will be affected by the proposed clearing or treatment;
- 15 (b) A clear explanation, based on the needs of the operation, as to the exact size of the
16 clearing needed and how it will meet the natural and scenic requirements set forth in Sections
17 40.240.570(B)(4)(d)(1) through (4);
- 18 (c) Describe in sufficient detail for evaluation the proposed agricultural use, the
19 improvements needed on the parcel, time line for its establishment, and its marketability; and
- 20 (d) Evidence that an agricultural specialist, such as the county extension agent, has examined
21 and found the proposed agricultural use reasonable and viable.

22 d. For forest practices, the following scenic resource guidelines shall apply:

23 (1) Forest practices shall meet the design guidelines and scenic standards for the applicable
24 landscape setting and zone.

25 (2) In the ~~(western portion (to White Salmon River) of the)~~ SMA Coniferous Woodland
26 Landscape Setting, no more than eight percent (8%) of the composite key viewing area view shed from
27 which the forest practice is topographically visible shall be in created forest openings at one (1)
28 time. The view shed boundaries shall be delineated by the Forest Service. The Forest Service will assist
29 (as available) in calculating and delineating the percentage of the composite key viewing area view
30 shed that is in created forest openings at one (1) time.

31 (3) For all other landscape settings, created forest openings visible at one time shall be within the
32 desired range for the vegetation type as set forth in Natural Resources guidelines in Sections
33 40.240.510(B)(25)(e)(1) through (e)(3).

34 (4) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns
35 in the landscape as set forth in Natural Resources guidelines in Sections 40.240.510(B)(25)(e)(1)
36 through (3).

37 (5) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in
38 the Forest Structure and Pattern Table.

- 39 (a) If the treatment is proposed to go beyond the above guideline based on forest health or
40 ecosystem function requirements, a stewardship plan shall be required.

(b) If the stewardship plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(6) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from KVAs ((a key viewing area)).

e. Forest practices shall maintain the following in addition to applicable natural resources guidelines in Section 40.240.88((4))0:

(1) Silvicultural prescriptions shall maintain the desired natural forest stand structures (trees species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(2) Created forest openings shall be designed as mosaics not to exceed the limits defined as "Desired" in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in Section 40.240.510(B)(12).

(3) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(4) If the treatment is proposed to deviate from the snag and down wood requirements, a stewardship plan shall be required and shall (show and prove)~~demonstrate~~ why a deviation from the snag and down wood requirements based on forest health or ecosystem function requirements, a stewardship plan shall be required.

26. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

Table 40.240.510-1 DESIRED FOREST STRUCTURE AND PATTERN

<u>1</u>	<u>2</u>	<u>3</u>		<u>4</u>		<u>5</u>	<u>6</u>	<u>7</u>
<u>Vegetation Type[#]</u>	<u>Forest Structure (Average % total canopy closure (cc))[*]</u>	<u>Typical Forest Opening-s Size Disturbance caused</u>		<u>Percent Openings at One Time</u>		<u>Leave Trees</u>	<u>Average Down Wood</u>	<u>Average Snags (Conifers) No. per acre</u>
		<u>Historic (Natural)</u>	<u>Desired</u>	<u>Historic (Natural)</u>	<u>Desired</u>	<u>Includes all available remnant old forest</u>	<u>Pieces 30 ft long per acre (scattered)</u>	<u>Snags are 20-40 ft in height</u>
<u>West Conifer</u>	<u>60-80% canopy closure</u> <u>Understory layer variable (0-60% of total cc)</u>	<u>Variable sizes with mosaic pattern, irregular shapes</u> <u>Mosaic fire 1-100 acres</u> <u>Catastrophic fire over 100 acres</u>	<u>Retain forested character</u> <u>Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs)</u> <u>All openings 1 acre or less on National Forest land and all Open Space LUD</u> <u>Openings retain 15 - 40 % canopy closure</u>	<u>10% (mosaic fire) up to 55% (catastrophic fire)</u> <u>Intense fire return interval is 300 yrs</u>	<u>Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting</u> <u>Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings</u>	<u>Leave 15% of existing trees per acre throughout opening and in clumps</u> <u>Include 3 trees per acre of the largest size trees available</u>	<u>18 - 25 pieces greater than 20" dbh</u>	<u>10 snags at 10"-20" dbh, and 7 snags greater than 20" dbh</u>
<u>East Conifer (Ponderosa Pine/Douglas fir)</u>	<u>40-80% canopy closure</u> <u>Understory layer less than 25% of total cc</u>	<u>Few Openings due to low intensity fires</u> <u>1/4 to 2 acres</u>	<u>Openings less than 1 acre</u> <u>Openings have 0 - 40% canopy closure</u> <u>Openings widely dispersed</u>	<u>1 - 10%</u>	<u>1 - 10% (% by vegetation type)</u>	<u>No leave trees required</u>	<u>3 - 6 pieces greater than 20" dbh</u>	<u>5 snags at 10"-20" dbh and 3 snags greater than 20" dbh</u>
<u>Ponderosa Pine/ Oregon Oak</u>	<u>25-60% canopy closure</u> <u>Understory layer greater than 25% of total cc.</u>	<u>Most natural openings due to poor soil</u> <u>Disturbance openings few</u>	<u>Openings less than 1 acre</u> <u>Openings have 0 - 25% canopy closure</u> <u>Openings widely dispersed</u>	<u>1 - 10%</u>	<u>1 - 10% (% by vegetation type)</u>	<u>No leave trees required</u>	<u>1 - 3 pieces greater than 20" dbh</u> <u>Oak snags can be counted if already dead or partially dead</u>	<u>5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh</u>

1

Map available at the Forest Service National Scenic Area Office

2 * Does not apply to openings.

3 4 Dbh: Diameter at Breast Height

1 **Section 39. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.520, and most recently
 2 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:
 3

4 **40.240.520 Review Uses with Additional Approval Criteria for Gorge Small Woodland Designations**

5 The following uses may be allowed on lands designated Gorge Small Woodland, subject to compliance with
 6 Sections 40.240.800 through 40.240.900, and consistent with Section 40.240.530:

7 A. Construction, reconstruction, or modification of roads, utility facilities and railroads necessary for public
 8 service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural
 9 and forest lands and on scenic, cultural, natural and recreation resources, and (2) the size is the minimum necessary
 10 to provide the service.

11 B. Home occupations in an existing residence or accessory structure, subject to the guidelines in Section
 12 40.240.240.

13 C. Fruit and produce stands, ((upon a showing that sales will be limited to agricultural products raised on the
 14 subject farm and other farms in the local region.))

15 D. Wineries and cideries, in conjunction with an on-site vineyard or orchard((viticulture)), upon a showing that
 16 processing of wine or cider is from ((grapes grown)) fruits harvested on the subject farm ((or in and the local region.

17 E. Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.

18 F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products
 19 grown primarily on the subject farm and sized to the subject operation.

20 G. Exploration of mineral and geothermal resources, pursuant to Section 40.285, Sections 40.240.800 through
 21 40.240.900 and all other applicable federal, state and county standards.

22 H. Development, and production of mineral and geothermal resources, as defined by Section 40.240.040, subject
 23 to Section 40.240.285((800)) and all other applicable federal, state and county standards, including those of Section
 24 40.250.022. Type III review procedures specified under Section 40.510.030 shall be required.

25 I. Aquaculture.

26 J. Boarding of horses, pursuant to Section 40.240.205.

27 K. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.

28 L. Expansion of existing nonprofit group camps, retreats, or conference centers.

29 M. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.250 and provided that the
 30 residence:

31 1. Is included in the National Register of Historic Places; or

32 2. Is listed on the Washington ((State-))Heritage Register ((of Historic Places-)) maintained by the
 33 Washington ((Office-)) Department of Archaeology and Historic Preservation.

34 N. Nonprofit, environmental learning or research facilities.

35 O. On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels
 36 that are contiguous with and have direct access to the Columbia River, pursuant to Section 40.240.260.

37 P. Disposal sites managed and operated by the Washington State Department of Transportation, or a Gorge
 38 county public works department for earth materials and any intermixed vegetation generated by routine or

1 emergency/disaster public road maintenance activities within the National Scenic Area, pursuant to Section
2 40.240.280.

3 Q. Special uses in historic buildings, pursuant to Section 40.240.310.

4 (Amended: Ord. 2006-05-04)

5

6 **Section 40. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.530, and most recently
7 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

8

9 **40.240.530 Approval Criteria for Specified Review Uses on Lands Zoned Gorge Small Woodland**

10 Uses identified in Section 40.240.520 may be allowed only if they meet the following criteria:

11 A. The owners of land designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture, that
12 lies within five hundred (500) feet of the perimeter of the subject parcel have been notified of the land use
13 application and have been given at least ten (10) days to comment prior to a ((final-))administrative or examiner's
14 decision;

15 B. The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to
16 resource use;

17 C. The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance
18 of interference with accepted forest or agricultural practices on nearby lands; and

19 D. The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel
20 and will comply with Section 40.240.540.

21 (Amended: Ord. 2006-05-04)

22

23 **Section 41. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.540, and most recently
24 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

25

26 **40.240.540 Approval Criteria for Fire Protection in Forest Designations**

27 All uses, as specified, shall comply with the following fire safety guidelines within the GMA:

28 A. All buildings shall be surrounded by a maintained defensible space((fuel break)) of at least fifty (50) feet.
29 Hazardous fuels shall be removed within the defensible space((fuel break)) area. Irrigated or fire-resistant vegetation
30 may be planted within the defensible space((fuel break)). This could include green lawns and low shrubs (less than
31 twenty-four (24) inches in height). Trees should be spaced greater than fifteen (15) feet between the crowns and
32 pruned to remove dead and low (less than eight (8) feet) branches. Accumulated leaves, needles, and other dead
33 vegetation shall be removed from beneath trees. Defensible space shall be adjusted to account for site slope, to
34 protect riparian vegetation and other resources, or as recommended by local fire districts, conservation districts, or
35 other professionals.

36 B. Buildings with plumbed water systems shall install at least one (1) standpipe a minimum of fifty (50) feet
37 from the structure(s).

38 C. A pond, stream, tank or sump with storage of not less than one thousand (1,000) gallons, or a well or water
39 system capable of delivering twenty (20) gallons per minute shall be provided. If a well pump is located on-site, the
40 electrical service shall be separate from the dwelling.

1 D. Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve
 2 (12) percent. Turnouts shall be provided at a minimum of every five hundred (500) feet and at the building site.
 3 Access drives shall be maintained to a level that is passable to fire equipment pursuant to 40.350.B. Variances to
 4 road guidelines may be made only after consultation with the Director of Public Works, local rural fire district, and
 5 the Washington Department of Natural Resources.

6 E. Within one (1) year of the occupancy of a dwelling, the responsible official shall conduct a review of the
 7 development to assure compliance with these guidelines.

8 F. ((Telephone and power)) Utility supply systems shall be underground whenever possible.

9 G. Roofs of structures ((should))shall be constructed of fire-resistant materials such as metal, fiberglass, or Class
 10 A asphalt shingle or tile pursuant to 15.13.050 CCC and NFPA 1144 2018 Edition. Roof materials such as cedar
 11 shake and shingle ((should))shall not be used.

12 H. Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be equipped with a
 13 spark arrestor that includes at least one screen((ed with)) no coarser than ((quarter))eighth (1/8((4))) inch mesh
 14 metal ((screen)) that is noncombustible and corrosion resistant((and should be equipped with a spark arrestor)).

15 I. All structural projections such as balconies, decks and roof gables should be built with fire-resistant materials
 16 equivalent to that specified in the International Building Code. Structural projections shall be set back from slopes
 17 per Washington State Building Code.

18 J. Attic openings, soft vents, foundation louvers or other ventilation openings on dwellings and accessory
 19 structures should be screened with no coarser than eighth ((quarter))(1/8((4))) inch mesh metal screen that is
 20 noncombustible and corrosion resistant.

21 K. Proposed uses shall comply with all applicable provisions of Title 15, Fire Prevention, including Chapters
 22 14.05 and 15.13. Section 40.240.540 requirements shall prevail in the event of conflict with these county codes.

23 (Amended: Ord. 2006-05-04)

24

25 **Section 42. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.550, and most recently
 26 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:
 27

28 **40.240.550 Approval Criteria for Siting of Dwellings on Forest Land**

29 The approval of new dwellings and accessory structures on or immediately adjacent to lands within a Forest zone in
 30 the GMA shall comply with the following guidelines:

31 A. The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or
 32 adjoining forest operations. Dwellings shall be set back at least two hundred (200) feet from adjacent parcels within
 33 the Forest zone. The responsible official may grant a variance to this setback under the provisions of Section
 34 40.240.150.

35 B. The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be
 36 minimized. This can include locating new dwellings and structures as close to existing public roads as possible,
 37 thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service
 38 corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry
 39 because of existing nonforest uses, adjacent dwellings, or land productivity.

40 C. Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle
 41 slopes and in any case not on slopes which exceed ((forty))thirty percent ((4))30%. Dwellings should be set back
 42 from slopes per Washington State Building Code. Narrow canyons and draws should be avoided. Dwellings should
 43 be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be
 44 located to make the access roads as short and flat as possible.

1 D. Grouping proposed development closer to existing development on adjacent lands may be used to minimize
2 impacts on nearby or adjacent forest operations.

3 (Amended: Ord. 2006-05-04)

4

5 **Section 43. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.560, and most recently
6 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

7

8 **40.240.560 Approval Criteria for Life Estates in Gorge Small Woodland**

9 A landowner who sells or otherwise transfers real property on lands zoned Gorge Small Woodland may retain a life
10 estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel.
11 A second dwelling unit on lands designated Gorge Small Woodland may be allowed, pursuant to Sections
12 40.240.800 through 40.240.900 and upon findings that:

13 A. The proposed dwelling is in conjunction with agricultural use, using Section 40.240.430(A)(9).

14 B. ~~((On lands designated Gorge Small Woodland, t))~~The proposed dwelling complies with Section
15 40.240.510(A)(1).

16 C. Upon termination of the life estate, the original or second dwelling shall be removed.

17 (Amended: Ord. 2006-05-04)

18

19 **Section 44. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.570, and most recently
20 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

21

22 **40.240.570 Dimensional Standards – Forest Land**

23 The following dimensional standard provisions shall apply to lands designated Gorge Small Woodland, Gorge SMA
24 Forest unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the
25 provisions of this chapter shall prevail.

26 A. All new land divisions shall comply with Section 40.240.370 and applicable county regulations. Newly
27 created lots shall comply with the following minimum lot size requirements:

28 1. Gorge Small Woodland 40 (GSW-40), forty (40) acres.

29 2. Gorge Small Woodland 20 (GSW-20), twenty (20) acres, except as provided in 40.240.A.4.

30 3. Gorge SMA Forest (GSFF), forty (40) acres for a new residence. New land divisionss shall be permitted in
31 the SMA only when the creation of new parcels facilitates federal acquisition of lands to achieve the policies of
32 the overall Management Plan.

33 4. On lands designated Small Woodland that include deer and elk winter range or turkey habitat, new
34 parcels shall be 40 acres or larger.

35 B. Minimum lot width of six hundred sixty (660) feet for newly created lots.

36 C. No minimum lot depth requirement.

37 D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road
38 easement.

- 1 E. Minimum side setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for
2 nonresidential buildings.
- 3 F. Minimum street side setback of twenty-five (25) feet for all buildings.
- 4 G. Minimum rear setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for
5 nonresidential buildings.
- 6 H. Setbacks shall also comply with Sections 40.240.130.
- 7 I. Medium height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic review
8 criteria of Section 40.240.800 or 40.240.900.

9 (Amended: Ord. 2006-05-04)

10

11 **Section 45. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.610, and most recently
12 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

13 **40.240.610 Review Uses – Open Space**

14 A. The following uses may be allowed on all lands zoned Gorge GMA Open Space subject to compliance with
15 Sections 40.240.800 through 40.240.900:

- 16 1. Low-intensity recreation, subject to Section 40.240.900(B).
- 17 2. Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.
18 Such land divisions shall be subject to Section 40.240.370. There shall be no minimum size requirement for
19 newly created lots.
- 20 3. ~~((Repair, maintenance, operation and i))~~Improvement, not including expansion of existing structures,
21 trails, roads, railroads, utility facilities and hydroelectric facilities.
- 22 4. Removal of timber, rocks or other materials for purposes of public safety and placement of structures for
23 public safety.
- 24 5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and~~or~~ natural
25 resources pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders,
26 sediment barriers) ~~((and/))~~or activities (e.g., closing and revegetating unused roads, recontouring abandoned
27 quarries).
- 28 6. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and
29 fuel tanks.
- 30 7. Lot line adjustments pursuant to Section 40.240.380.

31 B. The following uses may be allowed on lands designated Gorge GMA Open Space – State Parks Recreation
32 Areas within publicly owned lands:

- 33 1. All uses listed in Section 40.240.610(A);
- 34 2. Fish and wildlife management uses conducted by federal, state or tribal resource agencies;
- 35 3. Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local
36 conservation district;
- 37 4. Harvesting of wild crops, with written approval from the public agency owning or operating the land; and

1 5. Educational or scientific research.

2 C. The following uses may be allowed on lands zoned Gorge SMA Open Space, subject to compliance with
3 Sections 40.240.800 through 40.240.900 and when consistent with an open space plan approved by the Forest
4 Service pursuant to subsection (E) of this section:

5 1. Changes in existing uses including reconstruction, replacement, and expansion of existing structures and
6 transportation facilities, except for commercial forest practices.

7 2. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ((and)) or natural
8 resources, pursuant to Section 40.240.270. These projects may include vegetation management and forest
9 practices (pursuant to Section 40.240.510(B)(25)) for the restoration of forest health, new structures (e.g., fish
10 ladders, sediment barriers) ((and)) or activities (e.g., closing and revegetating unused roads, recontouring
11 abandoned quarries).

12 3. Low intensity recreation and uses and developments, including educational and interpretive facilities,
13 consistent with Section 40.240.900.

14 4. Utility facilities for public service upon a showing that:

15 a. There is no alternative location with less adverse effect on Open Space land.

16 b. The size is the minimum necessary to provide the service.

17 5. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and
18 fuel tanks.

19 (Amended: Ord. 2008-06-02)

20 D. An SMA open space plan shall be completed by the primary managing agency or landowner prior to any new
21 land uses or development, and shall be reviewed by the Forest Service. The open space plan shall include the
22 following:

23 1. Direction for resource protection, enhancement, and management;

24 2. Review of existing uses to determine compatibility with open space values; and

25 3. Consultation with members of the public and with agency and resource specialists.

26 E. Subject to review, treatment of noxious weeds ((shall)) may be permitted without completion of an SMA open
27 space plan, provided the following criteria are met:

28 1. The infestation of noxious weeds is recent and eradication is possible; and

29 2. Delaying or deferring treatment could cause widespread or significant adverse impacts to one (1) or more
30 of the following resources:

31 a. Displacement of native and traditionally gathered plants; or

32 b. Degradation of wildlife habitat and forage; or

33 c. Degradation or loss of agricultural uses of land, such as cropland or livestock forage; or

34 d. Limitation of recreational uses; or

35 e. For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

36 (Amended: Ord. 2006-05-04)

1

2

3 **Section 46. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.650, and most recently
 4 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:
 5

6 **40.240.650 Review Uses – Residential Land**

7 The following uses may be allowed on lands in the GMA zoned Gorge Residential, subject to compliance with
 8 Sections 40.240.800 through 40.240.900:

9 A. One (1) single-family dwelling per legally created and existing parcel.

10 1. If the subject parcel is located adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture, the
 use shall comply with the buffer and notification requirements of Section 40.240.130, and the notification
 requirements of Section 40.240.430(A)(15((6)))(e); and

13 2. If the subject parcel is located adjacent to lands zoned Gorge Small Woodland, the use shall comply with
 the buffer and notification requirements of Section 40.240.140, and the notification requirements of Section
 40.240.530(A), and the placement of a dwelling shall also comply with Section 40.240.540.

16 B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for
 the expedited development review process, or allowed in subsection (C) of this section.

18 C. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height
 for a dwelling on any legal parcel are subject to the following additional standards:

20 1. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five
 hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel,
 including buildings allowed without review, existing buildings and proposed buildings.

23 2. The height of any individual accessory building shall not exceed twenty-four (24) feet.

24 D. The temporary use of a ((mobile-))manufactured home, tiny house on a trailer, or similar structure in the case
 of a family hardship, pursuant to Section 40.240.210.

26 ((E. Construction or reconstruction of roads.

27 F. On parcels ten (10) acres or larger in the five (5) acre Residential designation, or twenty (20) acres or larger in-
 the ten (10) acre Residential designation, a land division creating new parcels smaller than the designated minimum-
 parcel size, pursuant to Section 40.240.370(B-))

30 E((G)). New cultivation, subject to compliance with Sections 40.240.820 and 40.240.840 through 40.240.870.

31 F. Agricultural structures, in conjunction with agricultural use, including new cultivation.

32 ((H))G. Land divisions, pursuant to Section 40.240.680 and Section 40.240.370((B)).

33 ((I))H. Lot line adjustments that would result in the potential to create additional parcels through subsequent land
 divisions pursuant to Section 40.240.380.

35 ((J))I Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and((or)) natural
 resources. These projects may include new structures ((and/o))r activities, pursuant to Section 40.240.270.

37 ((K. Agricultural structures, except buildings, in conjunction with agricultural use.

1 ((L))J. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural
 2 use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to standards in
 3 Section 40.240.200.

4 ((M))K. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the
 5 height of the existing building.

6 ((N))L. Docks and boathouses, pursuant to Section 40.240.230.

7 ((O))M. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and
 8 fuel tanks.

9 ((P))N. Commercial events, pursuant to Section 40.240.290.

10 (Amended: Ord. 2006-05-04)

11

12 **Section 47. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.660, and most recently
 13 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

14

40.240.660 Review Uses with Additional Approval Criteria – Residential Land

15 The following uses may be allowed on lands in the GMA zoned Gorge Residential subject to compliance with
 16 Sections 40.240.800 through 40.240.900, and Section 40.240.670:

17 A. Accredited child care centers on land designated five (5) acre Residential. A child care center may be allowed
 18 in Residential zones within an existing church or community building.

19 B. Schools within an existing church or community building.

20 C. Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this
 21 section, “existing schools” means public schools that existed prior to adoption of the original Management Plan on
 22 October 15, 1991.

23 D. Construction and reconstruction of roads, ((U))utility facilities and railroads.

24 E. Home occupations pursuant to Section 40.240.240.

25 F. Fire stations.

26 G. Recreation development, subject to compliance with Section 40.240.890.

27 H. Community parks and playgrounds ((, consistent with the guidelines of the National Park and Recreation-
 28 Society regarding the need for such facilities)).

29 I. Bed and breakfast inns in single-family dwellings located on lands designated 5-acre Residential or 10-acre
 30 Residential pursuant to Section 40.240.250.

31 J. Overnight accommodations in single family dwellings located on lands designated 5-acre Residential or 10-
 32 acre Residential, subject to the guidelines in 40.240.245.

33 K((J)). Wineries and cideries, in conjunction with an on-site ((viticulture)) vineyard or orchard, upon a showing
 34 that processing of wine or cider is from ((grapes grown))fruits harvested on the subject farm or in-and the local
 35 region.

36 L((K)). Wine or cider sales and tasting rooms in conjunction with an on-site winery or cidery. The use shall
 37 comply with Section 40.240.240, with the following exceptions:

- 1 1. The use may employ an unlimited number of outside employees.
- 2 2. The wine or cider sales and/4 tasting room may include interior and ((for)) exterior space, provided the
3 combined interior and exterior spaces shall not exceed one thousand (1,000) square feet.
- 4 3. The interior space may be located in an existing building or in a new building or addition to an existing
5 building constructed for the primary purpose of housing the wine or cider sales and/4 tasting room.
- 6 4. The exterior space may be a veranda, patio, or other similar type of structure.

7 M((L)). Small-scale fishing support and fish processing operation on parcels that are contiguous with and have
8 direct access to the Columbia River, pursuant to Section 40.240.260.

9 N((M)). Special uses in historic buildings, pursuant to Section 40.240.310.

10 (Amended: Ord. 2006-05-04)

11

12 **Section 48. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.670, and most recently
13 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

14

40.240.670 Approval Criteria for Specified Review Uses on Lands Zoned Residential

15 The uses identified in Section 40.240.((440-))660 may be allowed only if they meet CCC40.340.800 through
16 40.240.900 and all of the following:

- 17
- 18 A. The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts
19 associated with the visual character of the area, traffic generation, and noise, dust and odors.
- 20 B. The proposed use will not require public services other than those existing or approved for the area.
- 21 C. If the subject parcel is located within five hundred (500) feet of lands zoned Gorge Large-Scale or Small-
22 Scale Agriculture, Gorge Small Woodland, new buildings associated with the proposed use shall comply with
23 Section 40.240.130.
- 24 D. If the subject parcel is located within five hundred (500) feet of lands designated Gorge Small Woodland, new
25 buildings associated with the proposed use shall comply with Section 40.240.540.

26 (Amended: Ord. 2006-05-04)

27

28 **Section 49. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.680, and most recently
29 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

30

40.240.680 Dimensional Standards

31 The following dimensional standard provisions shall apply to lands zoned Gorge Residential unless otherwise noted
32 herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall
33 prevail.

- 34
- 35 A. All new land divisions shall comply with Section 40.240.370((B)) and applicable county regulations. Newly
36 created lots shall comply with the following minimum lot size requirements:
- 37 1. Gorge Residential 5 (GR-5), five (5) acres;
- 38 2. Gorge Residential 10 (GR-10), ten (10) acres.

- 1 B. Minimum lot width of one hundred forty (140) feet for newly created lots, unless required otherwise by the
2 Clark County Fire Marshal.
- 3 C. No minimum lot depth requirement.
- 4 D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road
5 easement.
- 6 E. Minimum side setback of twenty (20) feet for all residential and accessory buildings, fifty (50) feet for
7 buildings used for agricultural purposes.
- 8 F. Minimum rear setback of twenty (20) feet for all buildings.
- 9 G. Setbacks shall also comply with provisions of Sections 40.240.130 and 40.240.150.
- 10 H. Maximum height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic
11 review criteria of Section 40.240.800 or 40.240.810.
- 12 I. Where larger setbacks are not required by Section 40.240.130, parcels which are nonconforming as to
13 minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet from all property
14 lines except side setbacks adjacent to streets, which may observe building setbacks of twenty-five (25) feet.

15 (Amended: Ord. 2006-05-04)

16

17 **Section 50. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.720, and most recently
18 amended by Sec. 1 (Exh. A) of Ord. 2007-11-13 are each hereby amended as follows:

20 **40.240.720 Review Uses – Public Recreation**

21 A. The following uses may be allowed on lands in the GMA zoned Gorge Public Recreation, subject to
22 compliance with Sections 40.240.890(D)(3) through (7):

- 23 1. Publicly owned, resource-based recreation uses consistent with Section 40.240.890;
- 24 2. Commercial uses and non-resource-based recreation uses that are part of an existing or approved,
25 resource-based public recreation use consistent with (~~guidelines contained in this section~~)the following:
- 26 a. Uses other than those providing public recreation opportunities may be allowed if they do not
27 interfere with existing or approved recreation uses on the subject site or adjacent lands, and do not
28 permanently commit the site to non-recreation uses.
- 29 b. Commercial uses may be allowed if they are part of an existing or approved public recreation use
30 and are consistent with the following:
- 31 (1) Private concessions and other commercial uses at public recreation sites may be allowed
32 pursuant to adopted policies of the public agency owning or managing the site. If a different
33 agency manages the site, that agency's policies shall apply, unless superseded by provisions of the
34 owning agency's policies.
- 35 (2) For commercial recreation sites and public recreation sites not owned or managed by a
36 public park agency with adopted concession policies, the following policies shall apply:
- 37 (a) Retail sales at campgrounds shall be limited to camping supplies for overnight
38 guests in dedicated space within the registration or central office building.

1 (b) Private concessions in permanent structures shall be limited to one structure per
 2 park site. Sales shall be limited to those items necessary for enjoyment and use of
 3 recreation opportunities at the site, including food and beverages and recreation
 4 equipment rental.

5 (c) Mobile vendors may be permitted, subject to approval by the responsible official
 6 or examiner. This review shall address solid waste disposal, visual impacts of signs,
 7 traffic circulation, and safety. Such uses shall be limited to the term of the recreation
 8 season, and sales shall be limited to food and beverages and recreation equipment rental.;
 9 ((and))

10 3. New cultivation, subject to compliance with Sections 40.240.840 through 40.240.870.

11 B. The following uses may be allowed on lands in the GMA zoned Gorge Public Recreation, subject to
 12 compliance with Section 40.240.730:

13 1. One (1) single-family dwelling for each existing parcel legally created prior to adoption of the first
 14 Management Plan on October 15, 1991. Exceptions may be considered only upon demonstration that more than
 15 one (1) residence is necessary for management of a ((public-)) park owned or managed by a public park agency.

16 2. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible
 17 for the expedited development review process, or allowed in Section 40.240.720(B)(3).

18 3. Accessory buildings larger than two hundred (200) square feet in area or taller than ten (10) feet in height
 19 for a dwelling on any legal parcel are subject to the following additional standards:

20 a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand
 21 five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a
 22 parcel, including buildings allowed without review, existing buildings and proposed buildings.

23 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

24 4. Agricultural structures((, except buildings,))in conjunction with agricultural use.

25 5. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
 26 agricultural use that a landowner would initiate within one (1) year and complete within five (5) years.

27 6. Utility transmission, transportation, communication and public works facilities.

28 7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ((and))or natural
 29 resources, pursuant to Section 40.240.270.

30 8. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the
 31 height of the existing building.

32 9. Docks and boathouses, pursuant to Section 40.240.230.

33 10. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and
 34 fuel tanks.

35 11. Commercial events, pursuant to Section 40.240.290.

36 (Amended: Ord. 2007-11-13)

37 C. Land divisions, subject to compliance with Section 40.240.730(C) and 40.240.370.

38 D. Special uses in historic buildings, pursuant to Section 40.240.310.

1 (Amended: Ord. 2006-05-04)

2

3 **Section 51. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.730, and most recently
 4 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

5

6 **40.240.730 Approval Criteria for Non-Recreation Uses in Gorge Public Recreation Zones**

7 The uses identified in Section 40.240.720(B) may be allowed only if they meet the following:

8 A. The proposed use will not interfere with existing or approved public recreation uses on the subject property or
 9 adjacent lands. Mitigation measures to comply with this criterion may include on-site buffers, seasonal or temporary
 10 closures during peak recreation use periods, etc.

11 B. The proposed use will not permanently commit the majority of the site to a nonrecreational use. Careful siting
 12 and design of structure and other improvements may be used to comply with this criterion.

13 C. Land divisions may be allowed consistent with Section 40.240.370~~((B) and))~~if the applicant has
 14 demonstrated ((upon a demonstration)) that the proposed land division is necessary to facilitate, enhance or
 15 otherwise improve recreational uses on the site.

16 (Amended: Ord. 2006-05-04)

17

18 **Section 52. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.800, and most recently
 19 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

20

21 **ARTICLE VI. RESOURCE PROTECTION GUIDELINES**

22 **40.240.800 General Management Area Scenic Review Criteria**

23 The following scenic review guidelines shall apply to all review uses in the GMA:

24 A. All Review Uses.

25 1. New~~((buildings and roads)) development~~ shall be sited and designed to retain the existing topography
 26 and reduce necessary grading to the maximum extent practicable.

27 2. New buildings and expansion of existing development shall be compatible with the general scale --
 28 ((height, dimensions and overall mass)) of existing nearby development. ((Expansion of existing development
 29 shall comply with this guideline to the maximum extent practicable.)) New buildings that are 1,500 square feet
 30 or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:

31 a. Application of the landscape setting design guidelines, if applicable.

32 b. A defined study area surrounding the development that includes at least ten existing buildings, not
 33 including existing buildings within urban areas or outside the National Scenic Area.

34 c. Individual evaluations of scale for each separate proposed building in the application and each separate
 35 building in the study area, including:

36 (1) All finished above ground square footage;

37 (2) Total area of covered decks and porches;

38 (3) Attached garages

1 (4) Daylight basements

2 (5) Breezeways, if the breezeway shares a wall with an adjacent building

3 (6) Dimensions, based on information from the application or on Assessor's records

4 d. An overall evaluation demonstrating the proposed development's compatibility with surrounding
 5 development. Buildings in the vicinity of the proposed development that are significantly larger in size than
 6 the rest of the buildings in the study area should be removed from this evaluation.

7 3. ~~((Project applicants))~~ Landowners shall be responsible for the proper maintenance and survival of any
 8 planted vegetation required by the guidelines in Section 40.240.800.

9 ~~(4) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than sixty (60) square feet in area and less than or equal to ten (10) feet in height, as measured at the roof peak. The site plan and application shall include all information required in Section 40.240.050. Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.~~

10 5. For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

11 6. For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable. At a minimum, such reclamation plans shall include:

12 a. A map of the site, at a scale of one (1) inch equals two hundred (200) feet (1:2,400), or a scale providing greater detail, with ten (10) foot contour intervals or less, showing pre-mining existing grades and post mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of each basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.

13 b. Cross sectional drawings of the site showing pre-mining and post grades. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

14 c. Description of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

15 d. Description of drainage/erosion control features to be employed for the duration of the use.

16 e. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

17 7. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have thirty (30) calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

18 a. Whether the proposed mining is subject to state reclamation permit requirements;

19 b. If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

1 e. For uses subject to state jurisdiction, any issues or concerns regarding consistency with state
 2 reclamation requirements, or any suggested modifications to comply with state reclamation
 3 requirements.)

4 B. Key Viewing Areas.

5 1. The guidelines in this section shall apply to proposed development on sites topographically visible from
 6 key viewing areas.

7 2. Each development shall be visually subordinate to its setting as seen visible from key viewing areas. New
 8 development shall be sited to achieve visual subordinance from key viewing areas, unless the siting would
 9 place such development in a buffer specified for protection of wetlands, riparian corridors, rare plants, or
 10 sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, new
 11 development siting shall comply with this guideline to the maximum extent practicable.

12 3. Determination of potential visual effects and compliance with visual subordinance policies shall include
 13 consideration of the cumulative effects of proposed developments.

14 ((4. The extent and type)) A determination of ((conditions applied to)) the potential visual impact of a
 15 ((proposed)) new development ((to achieve visual subordinance shall be proportionate to its potential visual
 16 impacts as seen from key viewing areas.))

17 a. Decisions shall include written findings addressing the following factors ((influencing potential visual
 18 impact, including but not limited to:))

- 19 a.((1)) The amount of area of the building site exposed to key viewing areas;
- 20 b.((2)) The degree of existing vegetation providing screening;
- 21 c.((3)) The distance from the building site to the key viewing areas from which it is visible;
- 22 d.((4)) The number of key viewing areas from which it is visible; and
- 23 e.((5)) The linear distance along the key viewing areas from which the building site is visible (for
 24 linear key viewing areas, such as roads).

25 4.((b.)) The extent and type of ((C)) conditions ((may be)) applied to ((various elements of)) a proposed
 26 development((s)) to((ensure they are visually subordinate)) achieve visual subordinance to ((their)) its
 27 landscape setting shall be proportionate to its potential visual impacts as ((seen)) visible from key viewing
 28 areas. ((including but not limited to:)) Conditions may include, and shall be applied, using the following
 29 priorities:

- 30 a. Screening by topography
- 31 b.((1)) Siting (location of development on the subject property, building orientation, and other
 32 elements);
- 33 c.((2)) Retention of existing vegetation on the applicant's property;
- 34 d.((3)) Design (color, reflectivity, size, shape, height, architectural and design details and other
 35 elements); and
- 36 e.((4)) New landscaping on the applicant's property.
- 37 f. New berms or other recontouring on the applicant's property, where consistent with other
 38 applicable provisions.

1 ((5. New development shall be sited to achieve visual subordinance from key viewing areas, unless the
 2 siting would place such development in a buffer specified for protection of wetlands, riparian corridors,
 3 sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations,
 4 development shall comply with this guideline to the maximum extent practicable.))

5 5((6)). New development shall be sited using existing topography and((or)) existing vegetation as needed to
 6 achieve visual subordinance from key viewing areas.

7 6((7)). Existing tree cover screening proposed development from key viewing areas shall be retained as
 8 specified in Section 40.240.800(C).

9 7((8)). The silhouette of new buildings shall remain below the skyline of a bluff cliff or ridge as seen visible

10 from key viewing areas. ((Variances to this guideline may be granted if application of the guideline would
 11 leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the
 12 use, and may be applied only after all reasonable efforts to modify the design, building height, and site to
 13 comply with the guideline have been made.

14 9. An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline-
 15 of a bluff, cliff or ridge as seen from a key viewing area, may itself protrude above the skyline if:

- 16 a. The altered building, through use of color, landscaping and/or other mitigation measures, contrasts
 17 less with its setting than before the alteration; and
- 18 b. There is no practicable alternative means of altering the building without increasing the protrusion.))

19 8((9)). The following guidelines shall apply to new landscaping used to screen development from key
 20 viewing areas:

21 a. New landscaping (including new earth berms) shall be required only when application of all other
 22 available guidelines in Section 40.240.800 is not sufficient to make the development visually subordinate
 23 from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve
 24 visual subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.

25 b. If new landscaping is required to make a proposed development visually subordinate from key
 26 viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to
 27 determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any
 28 vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the
 29 development visually subordinate within five (5) years or less from the commencement of construction. If
 30 after five years the vegetation has not achieved a size sufficient to screen the development, additional
 31 screening may be required by the responsible official to make the development visually subordinate.

32 c. Unless as specified otherwise by provisions in Section 40.240.800, landscaping shall be installed as
 33 soon as practicable, and prior to project completion. Applicants and successors in interest for the subject
 34 parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of
 35 such vegetation that does not survive.

36 d. The *Scenic Resources Implementation Handbook* shall include recommended species for each
 37 landscape setting consistent with the Landscape Settings Design Guidelines in Section 40.240.800(C), and
 38 minimum recommended sizes of new trees planted (based on average growth rates expected for
 39 recommended species).

40 9((11)). Conditions regarding new landscaping or retention of existing vegetation for new developments on
 41 lands designated ((GMA Forest)) Gorge Small Woodland shall meet both scenic guidelines and defensible

42 space ((fuel break)) requirements in Section 40.240.540(A).

43 10((2)). Unless expressly exempted by other provisions in Section 40.240.800, colors of structures on sites
 44 visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding
 45 landscape. The specific colors or list of acceptable colors approved by the responsible official or examiner shall

1 be included as a condition of approval. ~~The Scenic Resources Implementation Handbook will include a~~
 2 ~~recommended palette of colors.~~

3 ~~11((3)). The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective~~
 4 ~~materials or materials with low reflectivity, ((unless the structure would be fully screened from all key viewing~~
 5 ~~areas by existing topographic features)). Continuous surfaces of glass shall be limited to ensure visual~~
 6 ~~subordinance. The Scenic Resources Implementation Handbook ((will)) includes a list of recommended exterior~~
 7 ~~materials. ((These recommended materials and screening methods, other materials may be deemed consistent~~
 8 ~~with this guideline, including those where the specific application meets recommended thresholds in the~~
 9 ~~“Visibility and Reflectivity Matrices” in the Implementation Handbook. Continuous surfaces of glass-~~
 10 ~~unscreened from key viewing areas shall be limited to ensure visual subordinance. Recommended square-~~
 11 ~~footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.~~

12 ~~14. In addition to the site plan requirements in Section 40.240.050, applications for all buildings visible~~
 13 ~~from key viewing areas shall include a description of the proposed building(s) height, shape, color, exterior~~
 14 ~~building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of~~
 15 ~~plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for~~
 16 ~~screening purposes).~~

17 ~~15. For proposed mining and associated activities on lands visible from key viewing areas, in addition to~~
 18 ~~submittal of plans and information pursuant to Section 40.240.800(A)(6) and subsection (B)(4) of this section,~~
 19 ~~project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key~~
 20 ~~viewing areas.))~~

21 ~~12((6)). Any exterior lighting shall be ((directed downward and-))sited, ((hooded and-))limited in~~
 22 ~~intensity, shielded, ((such-))or hooded in a manner that ((it is not)) prevents lights from being highly visible~~
 23 ~~from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road~~
 24 ~~lighting necessary for safety purposes.((Shielding and hooding materials shall be composed of nonreflective,~~
 25 ~~opaque materials.))~~

26 ~~137. Additions to existing buildings smaller in total ((square-))area than the existing building may be the~~
 27 ~~same color as the existing building. Additions larger than the existing building shall be of dark earth tone colors~~
 28 ~~found at the specific site or in the surrounding landscape. The specific colors((or list or acceptable colors))~~
 29 ~~approved by the responsible official or examiner shall be included as a condition of approval. ((The Scenic~~
 30 ~~Resources Implementation Handbook will include a recommended palette of colors.))~~

31 ~~14((8)). Rehabilitation of or modifications to existing significant historic structures shall be exempted from~~
 32 ~~visual subordinance requirements for lands visible ((seen-))from key viewing areas. To be eligible for such~~
 33 ~~exemption, the structure must be included in or eligible for inclusion in, the National Register of Historic~~
 34 ~~Places or be in the process of applying for a determination of significance pursuant to such regulations.~~
 35 ~~Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park~~
 36 ~~Service regulations for such structures.~~

37 ~~15((9)). New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil,~~
 38 ~~other fuels, or communications, except for connections to individual users or small clusters of individual users,~~
 39 ~~shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is~~
 40 ~~not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be~~
 41 ~~impracticable.~~

42 ~~16((20)). New communication facilities (antennas, dishes, etc.) on lands visible from key viewing areas,~~
 43 ~~which require an open and unobstructed site, shall be built upon existing facilities unless it can be demonstrated~~
 44 ~~that use of existing facilities is not practicable.~~

45 ~~17((21)). New communications facilities may protrude above a skyline visible from a key viewing area only~~
 46 ~~upon demonstration that:~~

- 47 a. The facility is necessary for public service;

- 1 b. The break in the skyline is visible ((seen-))only in the background; and
2 c. The break in the skyline is the minimum necessary to provide the service.

3 18((22)). Overpasses, safety and directional signs and other road and highway facilities may protrude above
4 a skyline visible from a key viewing area only upon a demonstration that:

- 5 a. The facility is necessary for public service; and
6 b. The break in the skyline is the minimum necessary to provide the service.

7 ((23. Except for water dependent development and for water related recreation development, development
8 shall be set back one hundred (100) feet from the ordinary high water mark of the Columbia River below
9 Bonneville Dam, and one hundred (100) feet from the normal pool elevation of the Columbia River above
10 Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the
11 setback may be authorized.))

12 19((24)). New buildings shall not be permitted on lands visible from key viewing areas with slopes in
13 excess of thirty percent (30%). A variance may be authorized if the property would be rendered unbuildable
14 through the application of this guideline. In determining the slope, the average percent slope of the proposed
15 building ((site-))footprint shall be used.

16 20((5)). Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill
17 slopes from key viewing areas.

18 21((6)). All proposed structural development involving more than two hundred (200) cubic yards of grading
19 on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by
20 the responsible official or examiner for compliance with key viewing area policies. The grading plan shall
21 include the following:

- 22 a. A map of the site, prepared at a scale of one (1) inch equals two hundred (200) feet (1:2,400), or a
23 scale providing greater detail, with contour intervals of at least five (5) feet, including:

- 24 (1) Existing and proposed final grades;
25 (2) Location of all areas to be graded, with cut banks and fill slopes delineated; and
26 (3) Estimated dimensions of graded areas.

- 27 b. A narrative description (may be submitted on the grading plan site map and accompanying
28 drawings) of the proposed grading activity, including:

- 29 (1) Its purpose;
30 (2) An estimate of the total volume of material to be moved;
31 (3) The height of all cut banks and fill slopes;
32 (4) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of
33 this information by a licensed engineer or engineering geologist is recommended);
34 (5) A description of all plant materials used to revegetated exposed slopes and banks, including
35 type of species, number of, size and location of plants, and a description of irrigation provisions or
36 other measures necessary to ensure the survival of plantings; and
37 (6) A description of any other interim or permanent erosion control measures to be utilized.

1 ((27. Expansion of existing quarries and new production and/or development of mineral resources proposed-
2 on sites within the CRGNSA area more than three (3) miles from the nearest key viewing areas from which it is
3 visible may be allowed upon a demonstration that:

- 4 a. The site plan requirements for such proposals pursuant to this chapter have been met;
- 5 b. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling,
6 etc., associated with the use would be visually subordinate as seen from any key viewing areas;
- 7 c. A reclamation plan to restore the site to a natural appearance which blends with and emulates
8 surrounding landforms to the maximum extent practicable has been approved pursuant to Section
9 40.240.800(A)(7);
- 10 d. A written report on a determination of visual subordinance has been completed, with findings
11 addressing the extent of visibility of proposed activities from key viewing areas, including:
 - 12 (1) A list of key viewing areas from which exposed mining surfaces (and associated
13 facilities/activities) would be visible;
 - 14 (2) An estimate of the surface area of exposed mining surfaces that would be visible from those key
15 viewing areas;
 - 16 (3) The distance from those key viewing areas and the linear distance along those key viewing areas
17 from which proposed mining surfaces are visible;
 - 18 (4) The slope and aspect of mining surfaces relative to those portions of key viewing areas from
19 which they are visible;
 - 20 (5) The degree to which potentially visible minimum surfaces are screened from key viewing areas
21 by existing vegetation, including winter screening considerations; and
 - 22 (6) The degree to which potentially visible mining surfaces would be screened by new plantings,
23 berms, etc., and appropriate time frames to achieve such results, including winter screening
24 considerations.

25 28. Unless addressed by subsection (B)(26) of this section, new production and/or development of mineral
26 resources may be allowed upon a demonstration that:

- 27 a. The site plan requirements for such proposals pursuant to this section have been met;
- 28 b. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc.,
29 associated with the use would be fully screened from any key viewing area; and
- 30 c. A reclamation plan to restore the area to a natural appearance which blends with and emulates
31 surrounding landforms to the maximum extent practicable has been approved. At minimum, the
32 reclamation plan shall comply with Section 40.240.800(A)(7).

33 29. An interim time period to achieve compliance with visual subordinance requirements for expansion of
34 existing quarries and development of new quarries located more than three (3) miles from the nearest visible
35 key viewing area shall be established prior to approval. The interim time period shall be based on site specific
36 topographic and visual conditions, but shall not exceed three (3) years beyond the date of approval.

37 30. An interim time period to achieve compliance with full screening requirements for new quarries located
38 less than three (3) miles from the nearest visible key viewing area shall be established prior to approval. The
39 interim time period shall be based on site specific topographic and visual conditions, but shall not exceed one
40 (1) year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with fall
41 screening requirements shall be limited to activities necessary to provide such screening (creation of berms,
42 etc.)).

1 (Amended: Ord. 2006-08-21; Ord. 2008-06-02)

2 C. All review uses within the following landscape settings, as delineated by the Columbia River Gorge
3 Management Plan Landscape Settings map, shall comply with the following applicable guidelines:

4 1. Pastoral.

5 a. Accessory structures, outbuildings and accessways shall be clustered together as much as possible,
6 particularly towards the edges of existing meadows, pastures and farm fields.

7 b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed
8 to achieve visual subordinance for new development and expansion of existing development:

9 (1) Except as is necessary for site development or safety purposes, the existing tree cover screening
10 the development from key viewing areas shall be retained.

11 (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and
12 fields.

13 (3) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the
14 setting. ~~((or commonly found in the area. Such)) Examples of native species appropriate for the area~~
15 ~~are identified in the Scenic Implementation Handbook. (include fruit trees, Douglas fir, Lombardy~~
16 ~~poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern~~
17 ~~Gorge).))~~

18 (4) At least one-quarter (1/4) of any trees planted for screening shall be coniferous for winter
19 screening. ~~Variances may be granted to this guideline when development is directly adjacent or~~
20 ~~adjoining a landscape setting where coniferous trees are not common or appropriate (as identified in~~
21 ~~the Scenic Implementation Handbook), and tree species ultimately selected for winter screening are~~
22 ~~natives characteristic to that setting.~~

23 c. Compatible recreation uses include resource-based recreation uses of a very low- or low-intensity
24 nature (as defined by Section 40.240.890), occurring infrequently in the landscape.

25 2. Coniferous Woodland.

26 a. Structure height shall remain below the forest canopy level.

27 b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed
28 to achieve visual subordinance for new development and expansion of existing development:

29 (1) Except as is necessary for construction of access roads, building pads, leach fields, etc., the
30 existing tree cover screening the development from key viewing areas shall be retained.

31 (2) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the
32 setting. ~~Examples of native species appropriate for the area are identified in the Scenic Implementation~~
33 ~~Handbook. (Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf~~
34 ~~maple, red alder, ponderosa, pine and Oregon white oak, and various native willows (for riparian~~
35 ~~areas).))~~

36 (3) At least one-half (1/2) of any trees planted for screening purposes shall be coniferous to provide
37 winter screening.

38 c. Compatible recreation uses include resource-based recreation uses of varying intensities. Typically,
39 outdoor recreation uses should be low intensity, and include trails, small picnic areas and scenic
40 viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be
41 scattered, interspersed with large areas of undeveloped land and low-intensity uses.

1 3. Rural Residential.

2 a. Existing tree cover shall be retained as much as possible, except as is necessary for site development,
3 safety purposes, or as part of forest management practices.

4 b. In portions of this setting visible from key viewing areas the following guidelines shall be employed
5 to achieve visual subordinance for new development and expansion of existing development:

6 (1) Except as is necessary for site development or safety purposes, the existing tree cover screening
7 the development from key viewing areas shall be retained.

8 (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and
9 fields.

10 (3) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the
11 setting or ~~((commonly found species identified in the Scenic Implementation Handbook as appropriate
12 for the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon
13 white oak, big leaf maple, and black locust (primarily in the eastern Gorge.))~~

14 (4) At least ~~half ((one quarter))~~ (1/2~~((4))~~) of any trees planted for screening purposes shall be
15 coniferous to provide winter screening.

16 c. Compatible recreation uses should be limited to very low and low-intensity resource-based
17 recreation uses (such as scenic overlooks).

18 4. Rural Residential/Pastoral.

19 a. New development in this setting shall meet the design guidelines for both the Rural Residential
20 setting and the more rural Pastoral setting with which it is combined unless it can be demonstrated that
21 compliance with the guidelines for the more rural setting is impracticable. Expansion of existing
22 development shall comply with this guideline to the maximum extent practicable.

23 b. In the event of a possible conflict between the guidelines, the guidelines for the more rural Pastoral
24 setting shall apply, unless it can be demonstrated that application of such guidelines would not be
25 practicable.

26 c. Compatible recreation uses should be limited to very low- and low-intensity resource-based
27 recreation uses, scattered infrequently in the landscape.

28 5. River Bottomlands.

29 a. In portions of this setting visible from key viewing areas, the following guidelines shall be employed
30 to achieve visual subordinance for new development and expansion of existing development:

31 (1) Except as is necessary for site development or safety purposes, existing tree cover screening the
32 development from key viewing areas shall be retained.

33 (2) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the
34 River Bottomland setting. Public recreation development~~((s)) is~~ are encouraged to maximize the
35 percentage of planted screening vegetation native to this setting.~~((Such species include: black-~~
36 ~~cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western-~~
37 ~~hemlock (west Gorge) and various native willow species.))~~

38 (3) At least one-quarter (1/4) of any trees planted for screening purposes shall be coniferous for
39 winter screening. ~~Variances may be granted to this guideline when development is directly adjacent or~~
40 ~~adjoining a landscape setting where coniferous trees are not common or appropriate (as identified in~~
41 ~~the Scenic Implementation Handbook), and tree species ultimately selected for winter screening are~~
42 ~~natives characteristic to that setting.~~

1 b. Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site.
 2 In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands
 3 or special habitat requirements may be compatible. In other River Bottomland areas, nodes of moderate-
 4 (intensity and) or high-intensity recreation uses may be compatible; provided, that:

- 5 (1) Their designs emphasize retention ((and)) or enhancement of native riparian communities;
- 6 (2) Structures and parking areas are visually subordinate; and
- 7 (3) They are separated from other areas of concentrated recreation usage by stretches of natural
 8 appearing shoreline and adjacent uplands.

9 D. All review uses within scenic travel corridors shall comply with the following applicable guidelines:

10 1. For the purposes of implementing this section, the immediate foreground of a scenic travel corridor shall
 11 include those lands within one-quarter (1/4) mile of the edge of pavement of the Washington State Route 14.

12 2. All new buildings and alterations to existing buildings, ((except in a Rural Center designation (village-))
 13 landscape setting,)) shall be set back at least one hundred (100) feet from the edge of pavement of Washington
 14 State Route 14 (SR-14). A variance to this setback requirement may be granted pursuant to Section 40.240.150.
 15 All new parking lots and expansions of existing parking lots shall be set back at least one hundred (100) feet
 16 from the edge of pavement of SR-14, to the maximum extent practicable.

17 3. Additions to existing buildings or expansion of existing parking lots located within one hundred (100)
 18 feet of the edge of pavement of a SR-14 shall comply with subsection (D)(2) of this section to the maximum
 19 extent practicable.

20 4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall
 21 include the following:

22 a. An evaluation of potential visual impacts of the proposed project as visible ((seen)) from any key
 23 viewing area;

24 b. An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project
 25 site. If such resources are determined to be present, the project shall comply with applicable guidelines to
 26 protect the resources.

27 5. When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility
 28 companies shall prioritize those areas specifically recommended as extreme or high priorities for
 29 undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory* prepared in
 30 April, 1990.

31 6. New exploration, development (extraction or excavation), and production of mineral resources
 32 ((production and/or development of mineral resources)) proposed within one-quarter (1/4) mile of the edge of
 33 pavement of SR-14 may be allowed upon a demonstration that full visual screening of the site from SR-14 can
 34 be achieved by use of existing topographic features or existing vegetation designed to be retained through the
 35 planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in
 36 the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or
 37 fully employed to achieve visual screening, over seventy-five percent (75%) of the tree canopy area shall be
 38 coniferous species providing adequate winter screening. Mining and associated primary processing of mineral
 39 resources is prohibited within one hundred (100) feet of SR-14, as measured from the edge of pavement, except
 40 for access roads. Compliance with full screening requirements shall be achieved within time frames specified in
 41 Section 40.240.285.E((800(B)(30))).

42 7. Expansion of existing quarries may be allowed pursuant to Section 40.240.285.((800(B)(27))).
 43 Compliance with visual subordinance requirements shall be achieved within time frames specified in Section
 44 40.240.285.D((800(B)(29))).

1 (Amended: Ord. 2006-05-04; Ord. 2008-06-02)

2

3 **Section 53. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.810, and most recently
 4 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

5

6 **40.240.810 Special Management Area Scenic Review Criteria**

7 A. SMA Design Guidelines Based on Landscape Settings.

8 The following guidelines apply to all lands within SMA landscape settings regardless of visibility from key
 9 viewing areas (includes areas visible ((seen)) from key viewing areas as well as areas not visible ((seen-)) from key
 10 viewing areas):

11 1. Pastoral. Pastoral areas shall retain the overall appearance of an agricultural landscape.

12 a. The use of plant species ((common-))native to the landscape setting. Examples of native species are
 13 identified in the Scenic Implementation Handbook as appropriate to the area shall be encouraged. The use
 14 of agricultural plant species in rows as commonly found in the landscape setting is also encouraged.

15 2. Coniferous Woodlands areas shall retain the overall appearance of a woodland landscape. New
 16 developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous
 17 Woodland landscape.

18 a. Buildings in the Coniferous Woodland landscape setting designed((shall be encouraged)) to have a
 19 vertical overall appearance shall be encouraged.

20 b. Use of plant species native to the landscape setting shall be encouraged. Examples of native species
 21 are identified in the Scenic Implementation Handbook as Where non-native plants are used, they shall
 22 have native appearing characteristics.

23 3. River Bottomlands. River bottomlands shall retain the overall visual character of a floodplain and
 24 associated islands.

25 a. Buildings shall have an overall horizontal appearance in areas with little tree cover.

26 b. Use of plant species native to the landscape setting. Examples of native species are identified in the
 27 Scenic Implementation Handbook as appropriate to the area shall be encouraged. Where non-native plants
 28 are used, they shall have native appearing characteristics.

29 B. SMA Guidelines for Development and Uses Visible from Key Viewing Areas.

30 1. The guidelines in this section shall apply to proposed development~~((s))~~ on sites topographically visible
 31 from key viewing areas.

32 2. New development~~((s))~~ and land uses shall be evaluated to ensure that the required scenic standard is met
 33 and that scenic resources are adversely affected, including cumulative effects, based on the degree of visibility
 34 from key viewing areas.

35 3. In all landscape settings, scenic standards shall be met by blending new development with the adjacent
 36 natural landscape elements rather than with existing development.

37 4. Proposed development~~((s))~~ or land use shall be sited to achieve the applicable scenic standard.
 38 Development shall be designed to fit the natural topography to take advantage of landform and vegetation
 39 screening, and to minimize visible grading or other modifications of landforms, vegetation cover and natural
 40 characteristics. When screening of development is needed to meet the scenic standard from key viewing areas,

1 use of existing topography and vegetation shall be given priority over other means of achieving the scenic
 2 standard such as planting new vegetation or using artificial berms.

3 5. The required SMA scenic standards for all development and uses are summarized below in Table
 4 40.240.810-1.

5 6. The extent and type of conditions applied to a proposed development or use to achieve the scenic
 6 standard shall be proportionate to its degree of visibility from key viewing areas.

7 a. Administrative and examiner's d(D)ecisions shall include written findings addressing the factors
 8 influencing the degree of visibility, including but not limited to the following:

- 9 (1) Amount of area of the building site exposed to key viewing areas;
- 10 (2) Degree of existing vegetation providing screening;
- 11 (3) Distance from the building site to the key viewing areas from which it is visible;
- 12 (4) Number of key viewing areas from which it is visible; and
- 13 (5) Linear distance along the key viewing areas from which the building site is visible (for linear
 14 key viewing areas such as roads).

Table 40.240.810-1. Required SMA Scenic Standards

Landscape Setting	Land Use Designation	Scenic Standard
Coniferous Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Coniferous Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Residential	Residential	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

15 b. Conditions may be applied to various elements of proposed developments to ensure they meet the
 16 scenic standard for their setting as visible ((seen)) from key viewing areas, including but not limited to:

- 17 (1) Siting (location of development on the subject property, building orientation, and other
 18 elements);
- 19 (2) Retention of existing vegetation;
- 20 (3) Design (form, line, color, texture reflectivity, size, shape, height, architectural and design details
 21 and other elements); and
- 22 (4) New landscaping.

23 7. Sites approved for new development to achieve scenic standards shall be consistent with guidelines to
 24 protect wetlands, riparian corridors, rare ((sensitive)) plant or wildlife sites and the buffer zones of each of
 25 these natural resources, and guidelines to protect cultural resources.

26 8. Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as visible ((seen-))
 27 from key viewing areas.

1 9. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to
2 the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the
3 function of the structure.

4 10. The following guidelines shall apply to new landscaping used to screen development from key viewing
5 areas:

6 a. New landscaping (including new earth berms) to achieve the required scenic standard from key
7 viewing areas shall be required only when application of all other available guidelines in this chapter is not
8 sufficient to make the development meet the scenic standard from key viewing areas. Development shall
9 be sited to avoid the need for new landscaping wherever possible.

10 b. If new landscaping is necessary to meet the required standard, existing on-site vegetative screening
11 and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of
12 new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized
13 to provide sufficient screening to meet the scenic standard within five (5) years or less from the
14 commencement of construction.

15 c. Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and
16 successors in interest for the subject parcel are responsible for the proper maintenance and survival of
17 planted vegetation, and replacement of such vegetation that does not survive.

18 d. The *Scenic Resources Implementation Handbook* shall include recommended species for each
19 landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum
20 recommended sizes of new trees planted (based on average growth rates expected for recommended
21 species).

22 11. Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from
23 key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific
24 colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources
25 Implementation Handbook will include a recommended palette of colors as dark or darker than the colors in the
26 shadows of the natural features surrounding each landscape setting.

27 12. The exterior of structures on lands seen from key viewing areas shall be composed of nonreflective
28 materials or materials with low reflectivity. ~~((The Scenic Resources Implementation Handbook will include a~~
29 ~~recommended list of exterior materials. These recommended materials and other materials may be deemed~~
30 ~~consistent with this guideline, including those where the specific application meets approval thresholds in the~~
31 ~~"Visibility and Reflectivity Matrices" in the Implementation Handbook.))~~ Continuous surfaces of glass
32 ~~((unscreened from key viewing areas))~~ shall be limited to ensure meeting the scenic standard. ~~((Recommended~~
33 ~~square footage limitations for such surfaces will be provided for guidance in the))~~ The Scenic Resources
34 Implementation Handbook includes a list of recommended exterior materials and screening methods..

35 13. Any exterior lighting shall be sited, limited in intensity, and shielded or hooded in a manner that
36 prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the
37 surrounding landscape setting except for road lighting necessary for safety purposes.

38 14. Seasonal lighting displays ~~((shall))~~may be permitted on a temporary basis, not to exceed three (3)
39 month^s duration.

40 15. New buildings shall be compatible with the general scale of existing nearby development. Expansion of
41 existing development shall comply with this guideline to the maximum extent practicable. New buildings that
42 are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but
43 are not limited to:

44 a. Application of the landscape setting design guidelines, if applicable.

1 b. A defined study area surrounding the development that includes at least ten existing buildings, not
 2 including existing buildings within urban areas or outside the National Scenic Area.

3 c. Individual evaluations of scale for each separate proposed building in the application and each
 4 separate building in the study area, including:

5 (1) All finished above ground square footage;

6 (2) Total area of covered decks and porches;

7 (3) Attached garages

8 (4) Daylight basements

9 (5) Breezeways, if the breezeway shares a wall with an adjacent building

10 (6) Dimensions, based on information from the application or on Assessor's records

11 d. An overall evaluation demonstrating the proposed development's compatibility with surrounding
 12 development. Buildings in the vicinity of the proposed development that are significantly larger in size than
 13 the rest of the buildings in the study area should be removed from this evaluation.

14 (Amended: Ord. 2008-06-02)

15 C. SMA Guidelines for Key Viewing Area Foregrounds and Scenic Routes.

16 1. All new developments and land uses immediately adjacent to scenic routes shall be in conformance with
 17 state or county scenic route guidelines.

18 2. Scenic highway corridor strategies shall be ((developed and)) implemented for Washington State Route
 19 14 (SR-14). For SR-14 this involves ongoing implementation (and possible updating) of the associated existing
 20 documents.

21 3. The goals of scenic corridor strategies shall include: (a) providing a framework for future highway
 22 improvements and management that meet Management Plan scenic guidelines and public transportation needs;
 23 and (b) creating design continuity for the highway corridor within the National Scenic Area. Corridor strategies
 24 shall, at minimum, include design guidelines (e.g., materials, conceptual designs, etc.) for typical projects that
 25 are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project
 26 planning and development process.

27 4. The following guidelines shall apply only to development within the immediate foregrounds of key
 28 viewing areas. Immediate foregrounds are defined as within the developed prism of a((river,)) road or trail
 29 ((key viewing area))KVA or within the boundary of the developed area of KVAs such as Crown Pt. and
 30 Multnomah Falls. These guidelines apply in addition to applicable guidelines of Section 40.240.810(B).

31 a. The proposed development shall be designed and sited to meet the applicable scenic standard from
 32 the foreground of the subject key viewing area. If the development cannot meet the standard, findings
 33 must be made documenting why the project cannot meet the requirements in Section 40.240.810(B) and
 34 why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

35 b. Findings must evaluate the following:

36 (1) The limiting factors to meeting the required scenic standard and((or)) applicable guidelines
 37 from Section 40.240.810(B);

38 (2) Reduction in project size;

- (3) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening; and

(4) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

c. Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as (~~seen~~)visible from the foreground of key viewing areas:

c. Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as ((seen))visible from the foreground of key viewing areas:

- (1) Form and line design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.
 - (2) Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.
 - (3) Texture borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.
 - (4) Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line, color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

5. Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as visible ((seen)) from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

6. Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

D. SMA Guidelines for Areas Not Visible ((Seen)) from Key Viewing Areas.

1. Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be dark earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from other recommended palette of colors included in the *Scenic Resources Implementation Handbook*.

2. New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:

- a. Application of the landscape setting design guidelines, if applicable.
 - b. A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.
 - c. Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:
 - (1) All finished above ground square footage;
 - (2) Total area of covered decks and porches;

- 1 (3) Attached garages
- 2 (4) Daylight basements
- 3 (5) Breezeways, if the breezeway shares a wall with an adjacent building
- 4 (6) Dimensions, based on information from the application or on Assessor's records
- 5 d. An overall evaluation demonstrating the proposed development's compatibility with surrounding
6 development. Buildings in the vicinity of the proposed development that are significantly larger in size than
7 the rest of the buildings in the study area should be removed from this evaluation.

8 (Amended: Ord. 2006-05-04)

10 **Section 54. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.820, and most recently
11 amended by Sec. 3 of Ord. 2018-03-04 are each hereby amended as follows:

12 **40.240.820 General Management Area Cultural Resource Review Criteria**

13 A. General Provisions for Implementing the Cultural Resources Protection Process.

- 14 1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
- 15 2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with ~~((Indian-))~~ tribal governments and any party who submits written comments on the proposed use related to such surveys, assessments, plans and evaluations. ~~((Indian-))~~Tribal governments shall be consulted if the affected cultural resources are precontact~~((historic))~~ or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the ~~((Indian-))~~ tribal governments do not have to be consulted. Comments received from a tribal government at any time during the responsible official's or examiner's review of a proposed development or use shall be considered to ensure that the proposed development or use does not affect or modify the treaty or other rights of that tribe.
- 16 3. Reconnaissance and Historic Surveys and Survey Reports.
 - 17 a. Reconnaissance Survey Requirements and Exceptions.
 - 18 (1) Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.
 - 19 (2) A reconnaissance survey shall be required for all proposed uses within five hundred (500) feet of a known cultural resource, and all proposed uses within 100 feet of a high probability area, including those uses listed as exceptions in Section 40.240.820(A)(3)(a)(3). The Forest Service maintains a map of known cultural resources and a probability map. Both maps are confidential as required by the National Scenic Area Act, other federal law, and Washington law.
 - 20 (3) A reconnaissance survey shall be required for all proposed uses, except:
 - 21 (a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

- (b) Proposed uses that would not disturb the ground, including land divisions and lot line adjustments; storage sheds that do not require a foundation; (~~low intensity recreation uses, such as fishing, hunting, and hiking~~); installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

- (c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of (mobile-
)manufactured homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

- (d) Proposed uses that occur on sites that have been disturbed by human activities; provided, that the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

- (e) Proposed uses that would occur on sites that have been adequately surveyed in the past.
~~(The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception.)~~ Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

- (f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- (i) Residential development that involves two (2) or more new dwellings for the same project applicant.

- (ii) Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

- (iii) Public transportation facilities that are outside improved rights-of-way.

- (iv) Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater.

- (v) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(4vi) Areas that have a low probability of containing cultural resources shall be identified by the Columbia River Gorge Commission using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

(54) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

b. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty (50) years old or older.

c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered,

1 the Gorge Commission also shall identify the approximate boundaries of the resource or property and
2 delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale
3 uses shall be the responsibility of the project applicant. Project applicants are responsible for paying for
4 evaluations of significance and mitigation plans for cultural resources that are discovered during
5 construction of small-scale and large-scale uses in the GMA. For this section, large-scale uses include
6 residential development involving two (2) or more new dwellings; all recreation facilities; commercial and
7 industrial development; public transportation facilities; electric facilities, lines, equipment, and
8 appurtenances that are thirty-three (33) kilovolts or greater; and communications, water and sewer, and
9 natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

10 d. Reconnaissance Surveys for Small-Scale Uses.

11 (1) Reconnaissance surveys for small-scale uses shall be designed by a qualified professional.

12 (2) Reconnaissance surveys for small-scale uses shall generally include a surface survey and
13 subsurface testing. They shall meet the following guidelines:

14 (a((4))) A surface survey of the project area shall be conducted, except for inundated areas
15 and impenetrable thickets.

16 (b((2))) Subsurface testing shall be conducted if the surface survey reveals that cultural
17 resources may be present. Subsurface probes shall be placed at intervals sufficient to determine
18 the absence or presence of cultural resources.

19 e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for
20 small-scale uses shall be documented in a confidential report that includes:

21 (1) A description of the fieldwork methodology used to ((identify-))identify cultural resources,
22 including a description of the type and extent of the reconnaissance survey.

23 (2) A description of any cultural resources that were discovered in the project area, including a
24 written description and photographs.

25 (3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if
26 applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

27 f. Reconnaissance Surveys for Large-Scale Uses.

28 (1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A
29 written description of the survey shall be submitted to and approved by the Gorge Commission's
30 designated archaeologist.

31 (2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the
32 design and potential effects of the proposed use. They shall meet the following guidelines:

33 (a) Archival research shall be performed before any fieldwork. It should entail a thorough
34 examination of tax records; historic maps, photographs, and drawings; previous archaeological,
35 historic, and ethnographic research; cultural resource inventories and records maintained by
36 federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters,
37 and newspapers.

38 (b) Surface surveys shall include the entire project area, except for inundated areas and
39 impenetrable thickets.

40 (c) Subsurface probes shall be placed at intervals sufficient to document the presence or
41 absence of cultural resources.

(d) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (1) A description of the proposed use, including drawings and maps.
 - (2) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
 - (3) A list of the documents and records examined during the archival research and a description of any precontact (~~historic~~) or historic events associated with the project area.
 - (4) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than (1:1,200) one (1) inch equals one hundred (100) feet (1:1,200)~~(or a scale providing greater detail)~~.
 - (5) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than (1:1,200) one (1) inch equals one hundred (100) feet (1:1,200)~~(or a scale providing greater detail)~~.
 - (6) A summary of all written comments submitted by (Indian) tribal governments and other interested parties.
 - (7) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

h. Historic Surveys and Reports.

- (1) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
 - (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
 - (3) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

4. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant (~~(, except)~~) for resources ~~((discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction))~~ of small-scale and large-scale uses.

5. Cultural resources are significant if one (1) of the following criteria is satisfied:

- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the “National Register Criteria for Evaluation” (36 CFR 60.4). Generally, cultural resources must meet one or more of the following criteria. If a cultural resource meets one or more of the criteria, then it shall be assessed for integrity of location, design, setting, materials, workmanship, feeling,

1 and association. If a cultural resource has the requisite integrity, then it would be eligible for the National
 2 Register of Historic Places.

3 b. The cultural resources are determined to be culturally significant by a(~~a Indian~~) tribal government,
 4 based on criteria developed by that (~~an Indian~~)tribal government(~~and filed with the Gorge Commission~~).

5 6. The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise
 6 cultural resource professionals, interested individuals, and at least one (1) representative from each of the four
 7 (4) Columbia River treaty (~~an Indian~~)tribes. If a project applicant's and (~~an Indian~~)tribal government's
 8 evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's
 9 evaluation and (~~an Indian~~)tribal government's substantiated concerns. The CAC will submit a recommendation
 10 to the responsible official or examiner as to whether affected cultural resources are significant.

11 7. Determination of potential effects to significant cultural resources shall include consideration of cumulative
 12 effects of proposed development that is subject to any of the following: 1) a reconnaissance or historic survey;
 13 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

14 (Amended: Ord. 2018-03-04)

15 B. Cultural Resource Reconnaissance and Historic Surveys.

16 1. Consultation and Ethnographic Research.

17 a. When written comments are submitted to the responsible official or examiner within the comment
 18 period provided for in Section 40.240.050(~~F(E)~~), the project applicant shall offer to meet with the
 19 commenting parties within ten (10) calendar days. The ten (10) day consultation period may be extended
 20 upon agreement between the project applicant and the commenting parties. Consultation meetings should
 21 provide an opportunity for commenting parties to explain how the proposed use may affect cultural
 22 resources. This consultation meeting may include oral history identification through tribal sources.
 23 Recommendations to avoid potential conflicts should be discussed. All written comments and consultation
 24 meeting minutes shall be incorporated into the reconnaissance or historic survey report, except that
 25 sensitive tribal information may be redacted by an appropriate tribal representative. In instances where a
 26 survey is not required, all such information shall be recorded and addressed in a report that typifies a
 27 survey report; inapplicable elements may be omitted.

28 b. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of
 29 ethnographic research if parties commenting on the application submit a written request for such research.
 30 All requests must include a description of the cultural resources that may be affected by the proposed use
 31 and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified
 32 specialists. (~~Tape r~~)Recordings, maps, photographs, and minutes shall be used when appropriate. All
 33 written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the
 34 reconnaissance or historic survey report. In instances where a survey is not required, all such information
 35 shall be recorded and addressed in a report that typifies a survey report.

36 2. Notice of Survey Results.

37 a. The responsible official shall submit a copy of all cultural resource survey reports to the SHPO and
 38 the (~~an Indian~~)tribal governments. Survey reports may include measures to avoid affected cultural
 39 resources, such as a map that shows a reasonable buffer zone.

40 b. The SHPO and the tribal governments (~~es~~) shall have thirty (30) calendar days from the date a
 41 survey report is (~~mailed~~)sent to submit written comments to the responsible official or examiner. The
 42 responsible official or examiner shall record and address all written comments in the (~~development~~
 43 ~~review order~~) administrative or examiner's decision.

44 3. Conclusion of the Cultural Resource Protection Process.

1 a. The administrative or examiner's decision shall address ((The responsible official shall make a final
 2 decision on)) whether the proposed use would be consistent with this section. If the ((final)) decision
 3 contradicts the comments submitted by the SHPO or tribal government, the responsible official or
 4 examiner shall justify how it reached an opposing conclusion.

5 b. The cultural resource protection process may conclude when one (1) of the following conditions
 6 exists:

7 (1) The proposed use does not require a reconnaissance or historic survey, no cultural resources are
 8 known to exist in the project area, and no substantiated concerns were voiced by parties commenting
 9 on the application within thirty ((twenty-one)) (30((24))) calendar days of the date that a notice was
 10 ((mailed))sent.

11 (2) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and
 12 no substantiated concerns were voiced by commenting parties within thirty ((twenty-one)) (30((24)))
 13 calendar days of the date that a notice was ((mailed))sent.

14 (3) The proposed use would avoid archaeological resources and traditional cultural resources that
 15 exist in the project area. To meet this guideline, a reasonable buffer zone must be established around
 16 the affected resources or properties; all ground disturbing activities shall be prohibited within the
 17 buffer zone. Buffer zones must preserve the integrity and context of cultural resources. They will vary
 18 in width depending on the eventual use of the project area, the type of cultural resources that are
 19 present, and the characteristics for which the cultural resources may be significant. A deed covenant,
 20 easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the
 21 cultural resources are protected.

22 ((Buffer zones must preserve the integrity and context of cultural resources. They will vary in width-
 23 depending on the eventual use of the project area, the type of cultural resources that are present, and
 24 the characteristics for which the cultural resources may be significant. A deed covenant easement or
 25 other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural
 26 resources are protected.))

27 c. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected
 28 cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated
 29 into the evaluation of significance.

30 d((e)). A historic survey demonstrates that the proposed use would not have an effect on historic
 31 buildings or structures.((because)):

32 (1) To demonstrate that the proposed use would not have an effect on historic buildings or
 33 structures, the historic survey must satisfy one of the following guidelines:

34 (a) The SHPO concludes that the historic buildings or structures are clearly not significant, as
 35 determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4);
 36 or

37 (b((2))) The proposed use would not compromise the historic or architectural character of the
 38 affected buildings or structures, or compromise features of the site that are important in defining
 39 the overall historic character of the affected buildings or structures, as determined by the
 40 guidelines and standards in ((The Secretary of the Interior's Standards for Rehabilitation and
 41 Illustrated Guidelines for Rehabilitating Historic Buildings and))The Secretary of the Interior's
 42 Standards for Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating,
 43 Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior 19832017 or
 44 most recent revision)).

45 (2) The historic survey conducted by the Gorge Commission may provide sufficient information to
 46 satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research

1 may be required. The project applicant shall be responsible for providing information beyond that included
2 in the survey conducted by the Gorge Commission.

3 (3) The historic survey and report must demonstrate that these guidelines have been clearly and
4 absolutely satisfied. If the SHPO,((or the)) responsible official or examiner question whether these
5 guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

6 C. Evaluation of Significance.

7 1. Evaluation Criteria and Information Needs. If cultural resources would be affected by a new use, an
8 evaluation of their significance shall be conducted. Evaluations of significance shall meet the following
9 guidelines:

10 a. Evaluations of significance shall follow the procedures in *How to Apply the National Register*
11 *Criteria for Evaluation* (U.S. Department of the Interior, ((no date))1997 or most recent revision) and
12 *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King,((no
13 date))1998 or most recent revision). They shall be presented within local and regional contexts and shall
14 be guided by previous research and current research designs that are relevant to specific research questions
15 for the Columbia River Gorge.

16 b. To evaluate the significance of cultural resources, the information gathered during the
17 reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface
18 testing, photographic documentation, laboratory analyses, and archival research may be required.

19 c. The project applicant shall contact ((Indian))tribal governments and commenting parties as
20 appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of
21 the cultural resources.

22 d. The evaluation of significance shall follow the principles, guidelines, and report format
23 recommended by Washington Department ((Office))of Archaeology and Historic Preservation
24 (Washington ((SHPO))DAHP((no date))). It shall incorporate the results of the reconnaissance or historic
25 survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented
26 within the context of relevant local and regional research.

27 e. All documentation used to support the evaluation of significance shall be cited. Evidence of
28 consultation with ((Indian))tribal governments and other commenting parties shall be presented. All
29 comments, recommendations, and correspondence from ((Indian))tribal governments and commenting
30 parties shall be appended to the evaluation of significance.

31 2. Notice of Evaluation Results.

32 a. If the evaluation of significance demonstrates that the cultural resources are not significant, the
33 responsible official shall submit a copy of the evaluation of significance to the SHPO and the ((Indian))
34 tribal governments for concurrence.

35 b. The SHPO, ((Indian))tribal governments, and commenting parties shall have thirty (30) calendar
36 days from the date the evaluation of significance is ((mailed))sent to submit written comments to the
37 responsible official. The responsible official or examiner shall record and address all written comments in
38 the ((development review order))administrative or examiner's decision.

39 3. Cultural Resources are Culturally Significant.

40 a. If a((n Indian))tribal government believes that the affected cultural resources are culturally
41 significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee
42 (CAC) shall make an independent review of the applications evaluation and the ((Indian))tribal
43 government's substantiated concerns. The CAC shall formulate a recommendation regarding the
44 significance of the cultural resources.

1 b. The ~~((Indian))~~ tribal government shall substantiate its concerns in a written report. The report shall
2 be submitted to the responsible official, CAC, and the project applicant within fifteen (15) calendar days
3 from the date the evaluation of significance is ~~((mailed))~~sent. The CAC must submit its recommendation
4 to the responsible official within thirty (30) calendar days from the date the evaluation of significance is
5 ~~((mailed))~~sent.

6 4. Conclusion of the Cultural Resource Protection Process.

7 a. ~~The administrative or examiner's decision shall address ((The responsible official shall make a final-
8 deecision on-))~~ whether the affected resources are significant. If the ~~((final))~~ decision contradicts the
9 comments or recommendations submitted by the SHPO or CAC, the responsible official or examiner shall
10 justify how an opposing conclusion was reached.

11 b. The cultural resource protection process may conclude if the affected cultural resources are not
12 significant.

13 c. If the project applicant ~~((or the))~~ responsible official or examiner determines that the cultural
14 resources are significant, the effects of the proposed use shall be assessed.

15 D. Assessment of Effect.

16 1. Assessment Criteria and Information Needs. If a use could potentially affect significant cultural
17 resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse
18 effect.

19 a. The assessment of effect shall be based on the criteria published in "Protection of Historic
20 Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and
21 the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

22 (1) Proposed uses are considered to have an effect on cultural resources when they alter or destroy
23 characteristics of the resources that make them significant (36 CFR 800.5).

24 (2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of
25 the cultural resource's location, design, setting, materials, workmanship, feeling, or association (36
26 CFR 800.5). Adverse effects on cultural resources include, but are not limited to:

27 (a) Physical destruction, damage, or alteration of all or part of the cultural resource.

28 (b) Isolation of the cultural resource from its setting or alteration of the character of the
29 resource's setting when that character contributes to the resource's qualification as being
30 significant.

31 (c) Introduction of visual, audible, or atmospheric elements that are out of character with the
32 cultural resource or its setting.

33 (d) Neglect of a significant cultural resource resulting in its deterioration or destruction,
34 except as described in 36 CFR 800.5.

35 b. The assessment of effect shall be prepared in consultation with ~~((Indian))~~ tribal governments and
36 interested persons, as appropriate. The concerns and recommendations voiced by ~~((Indian))~~ tribal
37 governments and interested persons shall be recorded and addressed in the assessment.

38 c. The effects of a proposed use that would otherwise be determined to be adverse may be considered
39 to be not adverse if any of the following instances apply:

40 (1) The cultural resources are of value only for their potential contribution to archaeological,
41 historical, or architectural research, and when such value can be substantially preserved through the

1 conduct of appropriate research before development begins, and such research is conducted in
 2 accordance with applicable professional standards and guidelines.

3 (2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a
 4 manner that preserves the historical and architectural character of affected cultural resources through
 5 conformance with *((The Secretary of the Interior's Standards for Rehabilitation and Illustrated*
Guidelines for Rehabilitating Historic Buildings and -))The Secretary of the Interior's Standards for the
Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and
Reconstructing Historic Buildings (U.S. Department of the Interior 2017 or most recent revision)).

9 (3) The proposed use is limited to the transfer, lease, or sale of non-federal lands that contain cultural
 10 resources, and adequate restrictions or conditions are included to ensure preservation of the significant
 11 features of the resources.

12 2. Notice of Assessment Results.

13 a. If the assessment of effect concludes that the proposed use would have no effect or no adverse effect
 14 on significant cultural resources, the responsible official shall submit a copy of the assessment to the
 15 SHPO and the ((Indian-))tribal governments.

16 b. The SHPO, ((Indian-))tribal governments, and interested persons shall have thirty (30) calendar days
 17 from the date the assessment of effect is ((mailed-))sent to submit written comments to the responsible
 18 official. The responsible official or examiner shall record and address all written comments in the
((development review order))administrative or examiner's decision.

20 3. Conclusion of the Cultural Resource Protection Process.

21 a. The administrative or examiner's decision shall address ((The responsible official shall make a final
 22 decision on)) whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the
 23 ((final-))decision contradicts the comments submitted by the SHPO or tribal government, the responsible
 24 official or examiner shall justify how an opposing conclusion was reached.

25 b. The cultural resource protection process may conclude if the proposed use would have no effect or
 26 no adverse effect on significant cultural resources.

27 c. A mitigation plan shall be prepared if a project applicant, ((or the-))responsible official or examiner
 28 determines that the proposed use would have an adverse effect on significant cultural resources.

29 (Amended: Ord. 2008-06-02)

30 E. Mitigation Plans.

31 1. Mitigation Plan Criteria and Information Needs. Mitigation plans shall be prepared when proposed uses
 32 would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no
 33 effect or no adverse effect. Mitigation plans shall meet the following guidelines:

34 a. Mitigation plans shall be prepared in consultation with persons who have concerns about or
 35 knowledge of the affected cultural resources, including ((Indian-))tribal governments, Native Americans,
 36 the responsible official ((local governments whose jurisdiction encompasses the project area)), and the
 37 SHPO.

38 b. Avoidance of cultural resources through project design and modification is preferred. Avoidance
 39 may be affected by reducing the size, scope, configuration, and density of the proposed use.

40 c. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative
 41 measures may include, but are not limited to, requiring a monitor during construction, burial under fill,
 42 stabilization, removal of the cultural resource to a safer place, and partial to full excavation and
 43 recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant,

1 easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.
 2 Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of
 3 significance, and the assessment of effect, and shall provide the documentation required in 36 CFR
 4 800.11, including, but not limited to:

- 5 (1) A description and evaluation of any alternatives or mitigation measures that the project
 6 applicant proposes for reducing the effects of the proposed use.
- 7 (2) A description of any alternatives or mitigation measures that were considered but not chosen
 8 and the reasons for their rejection.
- 9 (3) Documentation of consultation with the SHPO regarding any alternatives or mitigation
 10 measures.
- | 11 (4) A description of the project applicant's efforts to obtain and consider the views of ((Indian))
 12 tribal governments, commenting parties, and the responsible official.
- 13 (5) Copies of any written recommendations submitted to the responsible official or project
 14 applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or
 15 reduce those effects.

16 2. Notice of Mitigation Plan Results.

- 17 a. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse
 18 effect, the responsible official shall submit a copy of the mitigation plan to the SHPO and the ((Indian))
 19 tribal governments.
- 20 b. The SHPO, ((Indian))tribal governments, and commenting parties shall have thirty (30) calendar
 21 days from the date the mitigation plan is ((mailed))sent to submit written comments to the responsible
 22 official. The responsible official or examiner shall record and address all written comments in the
 23 ((development review order))administrative or examiner's decision.

24 3. Conclusion of the Cultural Resource Protection Process.

- 25 a. The administrative or examiner's decision shall address((The responsible official shall make a final-
 26 decision on)) whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect.
 27 If the ((final)) decision contradicts the comments submitted by the SHPO or tribal government, the
 28 responsible official or examiner shall justify how an opposing conclusion was reached.
- 29 b. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse
 30 effect to no effect or no adverse effect.
- 31 c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse
 32 effect to no effect or no adverse effect.

33 (Amended: Ord. 2008-06-02)

34 F. Cultural Resources Discovered After Construction Begins.

35 The following procedures shall be put into effect when cultural resources are discovered during construction
 36 activities, and shall be included as conditions of approval for all review uses. All survey and evaluation reports and
 37 mitigation plans shall be submitted to the responsible official and the SHPO. ((Indian-t))Tribal governments also
 38 shall receive a copy of all reports and plans if the cultural resources are precontact ((prehistoric)) or otherwise
 39 associated with Native Americans.

40 1. Halt of Construction. All construction activities within one hundred (100) feet of the discovered cultural
 41 resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

1 2. Notification. The project applicant shall notify the responsible official and the Gorge Commission within
 2 twenty-four (24) hours of the discovery. If the cultural resources are precontact ((prehistoric)) or otherwise
 3 associated with Native Americans, the project applicant shall also notify the Indian tribal governments within
 4 twenty-four (24) hours.

5 3. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written
 6 permission from the landowner and appropriate permits from the SHPO. (See Chapter 27.53 RCW). It shall
 7 gather enough information to evaluate the significance of the cultural resources. The survey and evaluation
 8 shall be documented in a report that generally follows the guidelines in Sections 40.240.820(A)(3)(g) and
 9 40.240.820(C)(1). Based on the survey and evaluation report and any written comments, the administrative or
 10 examiner's decision shall address whether the resources are significant. Construction activities may
 11 recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected
 12 cultural resources are significant.

13 ~~((Based on the survey and evaluation report and any written comments, the responsible official shall make a~~
 14 ~~final decision on whether the resources are significant. Construction activities may recommence if the cultural~~
 15 ~~resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are~~
 16 ~~significant.))~~

17 4. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report
 18 guidelines contained in Section 40.240.820(E)(1). Construction activities may recommence when the
 19 conditions in the mitigation plan have been executed.

20 G. Discovery of Human Remains.

21 The following procedures shall be ((put into effect))used when human remains are discovered during a cultural
 22 resource survey or during construction and shall be included as a condition of approval for all review uses. “Human
 23 remains” means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant
 24 burial artifacts.

25 1. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains
 26 shall not be disturbed any further.

27 2. Notification. Local law enforcement officials, the responsible official, the Gorge Commission, and the
 28 ((Indian)) tribal governments shall be contacted immediately. Do not contact any other entity other than those
 29 listed here.

30 3. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and
 31 determine if they are precontact, ((prehistoric)) historic; or modern. Representatives from the ((Indian)) tribal
 32 governments shall have an opportunity to monitor the inspection.

33 4. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume
 34 jurisdiction and the cultural resource protection process may conclude.

35 5. Treatment. Precontact ((Prehistoric)) or historic remains of Native Americans shall generally be treated
 36 in accordance with the procedures set forth Chapters 27.44 and 68.05 RCW if the remains are precontact or
 37 ((prehistoric)) historic. If the human remains will be re-interred or preserved in their original position, a
 38 mitigation plan shall be prepared in accordance with the consultation and report requirements specified in
 39 Section 40.240.820(E)(1). The mitigation plan shall accommodate the cultural and religious concerns of Native
 40 Americans. The cultural resource protection process may conclude when the conditions set forth in Section
 41 40.240.820(E)(3) are met and the mitigation plan is executed.

42 (Amended: Ord. 2006-05-04)

1 **Section 55. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.830, and most recently
2 amended by Sec. 1 (Exh. A) of Ord. 2008-06-02 are each hereby amended as follows:

3

4 **40.240.830 Special Management Area Cultural Resource Review Criteria**

5 A. General Guidelines for Implementing the Cultural Resources Protection Process.

6 1. All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the
7 National Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the
8 Freedom of Information Act under 16 USC 470(hh) and 36 CFR 296.18.

9 2. All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by
10 professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators
11 shall meet the professional standards published in 36 CFR 61.

12 3. The Forest Service will be responsible for performing the literature review and consultation, inventory,
13 evaluations of significance, assessments of effect, and mitigation requirements in Section 40.240.830(D) for
14 federal forest practices and National Forest System lands.

15 4. New developments or land uses shall not adversely affect significant cultural resources.

16 5. The SMA provisions will have little effect on federal or federally assisted developments. These
17 developments must continue to comply with Section 106 of the Historic Preservation Act of 1966.

18 B. The procedures and guidelines in Section 40.240.820 shall be used to review all proposed developments and
19 land uses other than those on all federal lands, federally assisted projects and forest practices.

20 C. The procedures and guidelines in 36 CFR 800 and Section 40.240.830(D) shall be used by federal agencies to
21 evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

22 D. The following procedures as well as the provisions in 36 CFR 800 shall be used to assess potential effects to
23 cultural resources:

24 1. Literature Review and Consultation.

25 a. An assessment shall be made to determine if any cultural resources listed on the National Register of
26 Historic Places at the national, state or county level exist on or within the area of potential direct and
27 indirect impacts.

28 b. A search shall be made of state and county government, National Scenic Area/Forest Service and
29 any other pertinent inventories, such as archives and photographs, to identify cultural resources, including
30 consultation with the State Historic Preservation Office and tribal governments. State and tribal
31 government response to the consultation request shall be allowed for thirty (30) days.

32 c. Consultation with cultural resource professionals knowledgeable about the area.

33 d. A field inventory by a cultural resource professional shall be required if the Forest Service (or the
34 responsible official))determines that a recorded or known cultural resource exists on or within the
35 immediate vicinity of a new development or land use, including those reported in consultation with the
36 tribal governments.

37 2. Field Inventory.

38 a. Tribal representatives shall be invited to participate in the field inventory.

39 b. The field inventory shall consist of one (1) or the other of the following guidelines, as determined by
40 the cultural resource professional:

1 (1) Complete survey: the systematic examination of the ground surface through a controlled
2 procedure, such as walking an area in evenly spaced transects. A complete survey may also require
3 techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the
4 presence of buried cultural resources.

5 (2) Sample survey: the sampling of an area to assess the potential of cultural resources within the
6 area of proposed development or use. This technique is generally used for large or difficult to survey
7 parcels, and is generally accomplished by a stratified random or nonstratified random sampling
8 strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by
9 nonenvironmental factors such as a survey grid.

10 Under this method, statistically valid samples are selected and surveyed to indicate the probability
11 of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the
12 results of the sample, a complete survey may or may not subsequently be recommended.

13 c. A field inventory report shall be prepared, and shall include the following:

14 (1) A narrative integrating the literature review of subsection (D)(1) of this section with the field
15 inventory of subsection (D)(2)(b) of this section.

16 (2) A description of the field inventory methodology used, including the type and extent of field
17 inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the
18 rationale for each.

19 (3) A statement of the presence or absence of cultural resources within the area of the new
20 development or land use.

21 (4) When cultural resources are not located, a statement of the likelihood of buried or otherwise
22 concealed cultural resources shall be included. Recommendations and standards for monitoring, if
23 appropriate, shall be included.

24 d. The report shall follow the format specified by the Washington ~~((Office))~~Department of
25 Archaeology and Historic Preservation for inventories conducted in the state of Washington.

26 e. The field inventory report shall be presented to the Forest Service ~~((or the responsible official))~~ for
27 review.

28 3. Evaluations of Significance.

29 a. When cultural resources are found within the area of the new development or land use, an evaluation
30 of significance shall be completed for each cultural resource in accordance with the criteria of the
31 National Register of Historic Places (36 CFR 60.4).

32 b. Evaluations of cultural resource significance shall be guided by previous and current research
33 designs relevant to specific research questions for the area.

34 c. Evaluations of the significance of traditional cultural properties shall follow National Register
35 Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within
36 local and regional contexts.

37 d. Recommendations for eligibility to the National Register shall be completed for each identified
38 resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service ~~or-~~
39 ~~((the responsible official))~~ shall review evaluations for adequacy.

40 e. Evidence of consultation with tribal governments and individuals with knowledge of the cultural
41 resources in the project area, and documentation of their concerns, shall be included as part of the
42 evaluation of significance.

1 f. An assessment of effect shall be required if the Forest Service ((or the responsible official))
2 determines that the inventoried cultural resources are significant.

3 4. Assessment of Effect.

4 a. For each significant (i.e., National Register eligible) cultural resource inventoried within the area of
5 the proposed development or change in use, assessments of effect shall be completed, using the criteria
6 outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and
7 individuals with knowledge of the cultural resources of the project area shall be included for subsections
8 (D)(4)(b) through (D)(4)(d) of this section. The Forest Service ((or the responsible official)) shall review
9 each determination for adequacy.

10 b. If the proposed development or change in use will have "no adverse effect," as defined by 36 CFR
11 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the
12 "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an
13 effect then the criteria of adverse effect (36 CFR 800.5) must be applied.

14 c. If the proposed development or change in use will have an "adverse effect," as defined by 36 CFR
15 800.5, to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the
16 property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of
17 Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to
18 Resolve Adverse Effects").

19 d. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation
20 shall be completed for the recommendation of that effect upon the qualities of the cultural resource that
21 make it eligible to the National Register. This documentation shall follow the process outlined under 36
22 CFR 800.11 ("Documentation Standards").

23 5. Mitigation.

24 a. If there will be an effect on cultural resources, measures shall be provided for mitigation of effects
25 (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance
26 of the property through project design or modification and subsequent protection, burial under fill, data
27 recovery excavations, or other measures which are proposed to mitigate effects.

28 b. Evidence of consultation with tribal governments and individuals with knowledge of the resources to
29 be affected, and documentation of their concerns, shall be included for all mitigation proposals.

30 c. The Forest Service ((or the responsible official)) shall review all mitigation proposals for adequacy.

31 (Amended: Ord. 2008-06-02)

32 E. Discovery During Construction.

33 All authorizations for new developments or land uses shall be conditioned to require the immediate notification
34 of the ((Forest Service or the)) responsible official if cultural resources are discovered during construction or
35 development.

36 1. If cultural resources are discovered, particularly human bone or burials, work in the immediate area of
37 discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the
38 discovery and recommend measures to protect and if possible/or recover the resources.

39 2. If the discovered material is suspected to be human bone or a burial, the following procedure shall be
40 used:

41 a. The applicant shall stop all work in the vicinity of the discovery.

- 1 b. The applicant shall immediately notify the responsible official, the Forest Service, the applicant's
2 cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.
- 3 c. The Forest Service or the responsible official shall notify the tribal governments if the discovery is
4 determined to be an Indian burial or a cultural resource.
- 5 d. A cultural resource professional shall evaluate the potential significance of the resource pursuant to
6 Section 40.240.830(D)(3) and report the results to the Forest Service ((or the responsible official)).
- 7 3. The cultural resource review process shall be complete and work may continue if the Forest Service ((or
8 the responsible official)) determines that the cultural resource is not significant.
- 9 4. The cultural resource professional shall recommend measures to protect and if possible((for)) recover the
10 resource pursuant to Section 40.240.830(D)(5) if the Forest Service or the responsible official determines that
11 the cultural resource is significant.

12 (Amended: Ord. 2006-05-04)

14 **Section 56. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.840, and most recently
15 amended by Sec. 4 of Ord. 2018-03-04 are each hereby amended as follows:

17 **40.240.840 General Management Area Water Resources ((Wetland-))(Wetlands, Streams, Ponds, Lakes, and**

18 Riparian Areas) Review Criteria

19 A. Wetlands Boundaries and Site Plans for Review Uses in Water Resources ((wetlands)).

20 1. If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for
21 determining the exact location of the wetland boundary.

22 a. The approximate location and extent of wetlands in the National Scenic Area are indicated on the list
23 of hydric soils and the soil survey maps and the National Wetlands Inventory (U.S. Department of the
24 Interior((, 1987))). Wetlands boundaries shall be delineated using the procedures specified in the Corps of
25 Engineers Wetland Delineation Manual (Wetlands Research Program Technical Report y-87-1, online
26 edition((, updated through March 21, 1997))). Some wetlands may not be shown on the wetlands
27 inventory or soil survey maps. Wetlands that are discovered during an inspection of a potential project site
28 shall be delineated and protected.

29 b. All wetlands delineations shall be conducted by a professional who has been trained to use the
30 federal delineation process((, such as a soil scientist, botanist, or wetlands ecologist)).

31 c. The responsible official may verify the accuracy of, and may render adjustments to, a wetlands
32 boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the
33 responsible official shall, at the applicant's expense, obtain professional services to render a final
34 delineation.

35 ((d. Proposed uses within wetlands or wetlands buffer areas shall comply with SEPA, this section, and
36 Chapter 40.450, as applicable. Chapter 40.240 shall prevail in cases of conflict with such regulations.))

37 2. In addition to the information required in all site plans, site plans for proposed uses in water resources
38 ((wetlands)) or ((wetlands-))their buffer zones shall include:

39 a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a
40 scale providing greater detail;

41 b. The exact boundary of the water resource ((wetland)), ordinary high water mark, or normal pool
42 elevation, ((-))and the ((wetlands-))buffer zone; and

1 c. A description of actions that would affect the water resource ((alter or destroy the wetland)).

2 (Amended: Ord. 2018-03-04)

3 **((B. Uses Allowed Outright in Wetlands and Wetlands Buffer Zones))**.

4 3. Uses allowed outright in wetlands and wetlands buffer zones are listed in Section 40.240.120. This section
 5 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the
 6 Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area,"
 7 numbered NSA-001 and dated September 1986. This map is available at county planning departments and
 8 Commission and Forest Service offices. The boundaries of the main stem appear as a heavy black line that generally
 9 follows the shoreline. For Section 40.240.050, backwaters and isolated water bodies created by roads and railroads
 10 are not part of the main stem of the Columbia River.

11 (Amended: Ord. 2018-03-04)

12 **B((E)). Review Uses in Wetlands**

13 1. The following uses may be allowed in wetlands, subject to compliance with Sections 40.240.800 through
 14 40.240.900, and 40.240.840.E.

15 a. The modification, expansion, replacement, or reconstruction of serviceable transportation or other
 16 public infrastructure (this does not include private road and driveways), if such actions would not:

17 (1) Increase the size of an existing structure by more than 100 percent.

18 (2) Result in a loss of water resource functions.

19 (3) Result in a loss of water quality, natural drainage, and fish and wildlife habitat.

20 b. The construction, modification, expansion, replacement, or reconstruction of minor water-related
 21 recreation structures that are available for public use. Structures in this category shall be limited to:
 22 boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided
 23 their surface is not constructed of impervious materials.

24 c. The construction, modification, expansion, replacement, or reconstruction of minor water-dependent
 25 structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so
 26 close together that they effectively convert an aquatic area to dry land. Structures in this category shall be
 27 limited to public and private docks and boat houses, and fish and wildlife management structures that are
 28 constructed by federal, state, or tribal government resource agencies.

29 C. The following uses may be allowed in ((wetlands and wetlands)) water resources (except wetlands)and may
 30 be allowed in all water resource ((-))buffer zones ((including wetlands buffer zones)), when approved pursuant to the
 31 provisions in Section 40.240.840((F((E)))), and reviewed under the applicable provisions of Sections 40.240.800
 32 through 40.240.900:

33 1. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions
 34 would not:

35 a. Increase the size of an existing structure by more than one hundred percent (100%);

36 b. Result in a loss of ((wetlands-))water resources acreage or functions;

37 c. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; and

38 d((e)). Intrude further into a water resources or water resources ((wetland or wetlands-))buffer zone.

39 New structures shall be considered intruding further into a water resources or water resources ((wetland or

1 ~~wetlands))~~ buffer zone if any portion of the structure is located closer to the water resource or ((wetland or
 2 wetlands)) buffer zone than the existing structure.

3 2. The construction modification, expansion, replacement, or reconstruction of minor water-related
 4 recreation structures that are available for public use. Structures in this category shall be limited to boardwalks;
 5 trails and paths, provided their surface is not constructed of impervious materials; observation decks; and
 6 interpretive aids, such as kiosks and signs.

7 3. The construction, modification, expansion, replacement, or reconstruction of minor water-dependent
 8 structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close
 9 together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to
 10 public and private docks and boat houses, and fish and wildlife management structures that are constructed by
 11 federal, state, or tribal government resource agencies.

12 (Amended: Ord. 2008-06-02; Ord. 2018-03-04)

13 D. Uses not listed in Sections 40.240.840(B) and (C) may be allowed in water resources (except wetlands) and in
 14 all water resources((wetlands and wetlands)) buffer zones (including wetland buffer zones), when approved
 15 pursuant to Section 40.240.840(G(F)) and reviewed under the applicable provisions of Sections 40.240.800
 16 through 40.240.900.

17 E. Approval Criteria for Uses in Wetlands

18 1. The uses identified in 40.240.840.B.1, may be allowed only if they meet all of the following criteria:

19 a. Practicable alternatives for locating the structure outside of the wetland do not exist.

20 b. All reasonable measures have been applied to ensure that the use will result in the minimum
 21 loss of wetlands and in the minimum degradation of ecological functions, water quality, existing
 22 contour, vegetation, fish and wildlife resources, and hydrology.

23 c. The use will be constructed using best management practices. Best management practices can
 24 include measures to prevent soil erosion, the introduction and spread of invasive plants and
 25 aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation
 26 decks shall be constructed using non-toxic materials to protect water quality.

27 d. Areas disturbed during construction of the use will be rehabilitated to the maximum extent
 28 practicable.

29 e. The use complies with the Approval Criteria for Other Review Uses in Water Resources
 30 below.

31 f. Proposed uses in wetlands shall be evaluated for adverse effects, including cumulative effects,
 32 and adverse effects shall be prohibited

33 g. The use complies with all applicable federal, state, and local laws.

34 F((E)). Applications for modifications to serviceable structures and minor water-dependent and water-related
 35 structures in water resources ((wetlands))listed in 40.240.840.C shall demonstrate that:

36 1. Practicable alternatives to locating the structure outside of the water resource ((wetlands))or ((wetland-
 37 ((wetland-))buffer zone ((and/or minimum the impacts of the structure))do not exist;

38 2. All reasonable measures have been applied to ensure that the ((structure))use will result in the minimum
 39 ((feasible))alteration or degradation ((destruction))of ecological functions ((the wetlands)), water quality,
 40 existing contour, ((functions)), vegetation, fish and wildlife resources, and hydrology;

1 3. The structure will be constructed using best management practices. Best management practices can
 2 include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and
 3 other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using
 4 non-toxic materials to protect water quality;

5 4. Areas disturbed during construction of the ((structure))use will be rehabilitated to the maximum extent
 6 practicable;

7 5. Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including
 8 cumulative effects, and adverse effects shall be prohibited. and

9 65. The structure complies with all applicable federal, state, and county laws.

10 GF. Applications for all other review uses listed in 40.240.840.D in water resources ((wetlands))shall
 11 demonstrate that:

12 1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative
 13 considering all of the following:

14
 15 a. The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in
 16 the vicinity that would avoid or result in less adverse effects on ((wetlands))water resources, wildlife areas
 17 and sites or plant areas and sites.((?:))

18 b. The basic purpose of the use cannot be ((reasonably))accomplished by reducing its proposed size,
 19 scope, configuration, or density as proposed, or by changing the design of the use in a way that would
 20 avoid or result in less adverse effects on ((wetlands))water resources, or wildlife areas or sites or plant
 21 areas and sites.; and

22 c. Reasonable attempts have been made to remove or accommodate constraints that caused a project
 23 applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure,
 24 parcel size, and zone designations. If a land use designation or R((f))ecreation I((i))ntensity C((e))lass is a
 25 constraint, an applicant must request a Management Plan amendment to demonstrate that practicable
 26 alternatives do not exist. An alternative site for a proposed use shall be considered practicable if it is
 27 available and the proposed use can be undertaken on that site after taking into consideration cost,
 28 technology, logistics, and overall project purposes.

29 2. Public Interest Test. The proposed use is in the public interest. The following factors shall be considered
 30 when determining if a proposed use is in the public interest:

31 a. The extent of public need for the proposed use For uses in wetlands, public need is limited to uses
 32 necessary to alleviate a current public safety issue supported by evidence establishing the safety issue.;

33 b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on
 34 the public and private uses for which the property is suited;

35 c. The functions and size of the ((wetland))water resource that may be affected;

36 d. The economic value of the proposed use to the general area; and

37 e. The ecological value of the water resource ((wetland))and probable effect on public health and
 38 safety, fish, plants, and wildlife.

39 3. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration ((or-
 40 destruction-))of the resource. As a starting point, the following measures shall be considered when new
 41 development and uses are proposed in water resources or buffer zones: ((wetland's functions, existing contour,
 42 vegetation, fish and wildlife resources, and hydrology.))

- 1 a. Ecological functions, contour, and hydrology shall be maintained. Nonstructural controls and natural
 2 processes shall be used to the greatest extent possible.
- 3 b. Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work
 4 in streams, ponds, and lakes shall be conducted during the periods specified in Washington state's
 5 published guidelines for in-water work, or as advised by the Washington Department of Fish and Wildlife.
- 6 c. All vegetation shall be retained to the greatest extent practicable, including wetland, aquatic, and
 7 riparian vegetation.
- 8 d. Bridges, roads, pipelines and utility corridors, and other water crossings shall be minimized and should
 9 serve multiple purposes and properties.
- 10 e. Stream channels shall not be placed in culverts unless absolutely necessary for property access.
 11 Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks.
 12 When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and
 13 grade should be used. State agencies with permitting responsibility for culverts shall be consulted.
- 14 f. Temporary and permanent control measures shall be applied to minimize erosion and sedimentation
 15 when water resource areas are disturbed, such as slope netting, berms and ditches, tree protection, sediment
 16 barriers, infiltration systems, and culverts.
- 17 g. Measures shall be taken to prevent the introduction or spread of invasive plants or aquatic species.
- 18 4. Groundwater and surface-water quality will not be degraded by the proposed use.
- 19 5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not
 20 be located in water resources or ((wetlands or wetlands)) buffer zones.
- 21 6. The proposed use complies with all applicable federal, state, and county laws.
- 22 7. Areas that are disturbed during construction will be rehabilitated((to the maximum extent practicable))
 23 When a project area cannot be completely restored or rehabilitated, such as when a boat launch permanently
 24 displaces aquatic and riparian areas, enhancement shall also be required.
- 25 8. Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including
 26 cumulative effects, and adverse effects shall be prohibited.
- 27 9((8)). Unavoidable impacts to water resources ((wetlands)) will be offset through restoration, creation, or
 28 enhancement of impacted resources((wetlands)). ((Wetlands +)) Restoration, creation, and enhancement are not
 29 alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable water
 30 resource ((wetlands)) impacts.
- 31 10. Restoration, creation, and enhancement shall improve water quality, natural drainage, and fish and
 32 wildlife habitat of the affected wetland, stream, pond, lake, or buffer zone. When a project area has been
 33 disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable The
 34 following ((wetlands)) water resource restoration, creation, and enhancement guidelines shall apply:
- 35 a. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded
 36 wetlands. Wetlands restoration shall be the preferred approach when wetlands are impacted.((alternative.))
- 37 b. Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with
 38 Section 40.240.840(H) and Chapter 40.450, although Chapter 40.240 shall prevail in cases of conflict.)
- 39 b. Water resources restoration and enhancement projects shall be conducted in accordance with a
 40 wetlands compensation plan or water resources mitigation plan. Voluntary enhancement project
 41 applications shall be encouraged. See Part III, Chapter 4: "Enhancement Strategies" of the Management
 42 Plan and 40.240.270.

- 1 c. ((Wetlands restoration, creation, and enhancement projects shall use native vegetation.)) Water
2 resources shall be replanted with native plant species that replicate the original vegetation community
- 3 d. Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity,
4 volume, and normal water fluctuation.
- 5 e. Natural stream channel and shoreline dimensions shall be replicated, including depth, width,
6 length, cross-sectional profile, and gradient. Riparian areas shall be rehabilitated to their original
7 configuration, including slope and contour.
- 8 f. The bed of the affected aquatic area shall be rehabilitated with materials appropriate for the
9 channel and hydrologic features.
- 10 g. Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and
11 structural habitat features including large woody debris and boulders.
- 12 h. Rehabilitation and enhancement efforts shall be completed no later than 90 days after the water
13 resource or buffer zone has been altered, or as soon thereafter as is practicable.

14 i((d)). The size of replacement wetlands shall equal or exceed the following ratios (the first number
15 specifies the required acreage of replacement wetlands and the second number specifies the acreage of
16 wetlands altered ((or destroyed))):

- | | |
|------------------|-----|
| (1) Restoration: | 2:1 |
| (2) Creation: | 3:1 |
| (3) Enhancement: | 4:1 |

17 j((e)). Replacement wetlands shall replicate the functions of the wetland that will be altered ((or
18 destroyed)) such that ((there are no net loss)) improvement of wetlands functions occurs.

20 k((f)). Replacement wetlands should replicate the type of wetland that will be altered ((or destroyed)).
21 If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater
22 benefit may be substituted; provided, that ((no net loss)) improvement of wetlands functions occurs.

23 l((g)). Wetlands restoration, creation, or enhancement should occur within one thousand (1,000) feet of
24 the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall
25 occur within the same watershed and as close to the altered ((or destroyed)) wetland as practicable.

26 m((h)). ((Wetlands r))Restoration, creation, and enhancement efforts should be completed before a
27 water resource ((wetland)) is altered ((or destroyed)). If it is not practicable to complete all restoration,
28 creation, and enhancement efforts before the water resource ((wetland)) is altered ((or destroyed)), these
29 efforts shall be completed before the new use is occupied or used.

30 n((i)). Five (5) years after a wetland is restored, created, or enhanced, or three years after a stream,
31 pond, lake, or riparian area is restored, at least seventy-five percent (75%) of the replacement vegetation
32 shall ((must))survive. For a period of at least five (5) years, the owner shall monitor the hydrology and
33 vegetation of the replacement water resource, provide reports, ((wetland))and shall take corrective
34 measures to ensure that it conforms with the approved wetlands compensation plan or water resources
35 mitigation plan and this guideline.

36 H((G)). Water Resources ((Wetlands))Buffer Zones.

- 37 1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified below.

1 2. Buffer zones shall be measured outward from the bank full flow boundary for streams, the ordinary high
 2 water mark for ponds, lakes and the Columbia River below Bonneville Dam, the normal pool elevation for the
 3 main stem Columbia River above Bonneville Dam, and the wetland delineation boundary for wetlands on a
 4 horizontal scale that is perpendicular to the water resource boundary.

5 3. The project applicant shall be responsible for determining the exact location of the bank full flow
 6 boundary, ordinary high water mark, normal pool elevation, or wetland delineation boundary. The responsible
 7 official may verify the accuracy of and render adjustments to the applicant's determination. If the project
 8 applicant contests the adjustment, the responsible official shall obtain professional services to render a final
 9 delineation, at the project applicant's expense.

10 4~~(4)~~. The width of wetlands, lakes, and ponds buffer zones shall be based on the dominant vegetation
 11 community that exists in a buffer zone.

12 a~~(2)~~. The dominant vegetation community in a buffer zone is the vegetation community that covers
 13 the most surface area of that portion of the buffer zone that lies between the proposed activity and the
 14 affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

15 (1)~~(a)~~. A forest vegetation community is characterized by trees with an average height equal
 16 to or greater than twenty (20) feet, accompanied by a shrub layer; trees must form a canopy cover
 17 of at least forty percent (40%) and shrubs must form a canopy cover of at least forty percent
 18 (40%). A forest community without a shrub component that forms a canopy cover of at least forty
 19 percent (40%) shall be considered a shrub vegetation community.

20 (2)~~(b)~~. A shrub vegetation community is characterized by shrubs and trees that are greater
 21 than three (3) feet tall and form a canopy cover of at least forty percent (40%).

22 (3)~~(c)~~. An herbaceous vegetation community is characterized by the presence of herbs,
 23 including grass and grass-like plants, forbs, ferns, and nonwoody vines.

24 5~~(3). Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is~~
 25 ~~perpendicular to the wetlands boundary.-)~~ The following buffer zone widths for wetlands, lakes and ponds shall
 26 be required:

- a. Forest communities: 75 feet
- b. Shrub communities: 100 feet
- c. Herbaceous communities: 150 feet

27 6~~(4).~~ Except as otherwise allowed, water resources ((wetlands-))buffer zones shall be retained in their
 28 natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species-
 29 ~~(as identified by the Clark Conservation District).~~

31 7. The width of buffer zones for streams used by anadromous or resident fish (tributary fish habitat), special
 32 streams, intermittent streams that include year-round pools, and perennial streams shall be 100 feet.

33 8. The width of buffer zones for intermittent streams, provided they are not used by anadromous or resident
 34 fish, shall be 50 feet.

35 (Amended: Ord. 2012-12-23)

36 I~~(H)~~. Wetlands Compensation Plans.

37 Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance
 38 wetlands. A written plan addressing the guidelines in this section is also required for voluntary enhancement
 39 projects. All wetlands compensation plans must be approved by the responsible official, after consultation with

1 federal and state agencies with jurisdiction over wetlands. They shall satisfy the following guidelines and any others
 2 required by federal and state agencies:

- 3 1. Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant.
 4 They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
- 5 2. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered ((-
 6 or destroyed)) and the wetland that will be restored, created, or enhanced. The assessment shall include
 7 information on flora, fauna, hydrology, and wetlands functions.
- 8 3. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement
 9 wetland, including a description of the water source and drainage patterns, topography, wildlife habitat
 10 opportunities, and value of the existing area to be converted.
- 11 4. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour
 12 intervals no greater than one (1) foot, slope percentages, and final grade elevations; and other technical
 13 information shall be provided in sufficient detail to explain and illustrate:
 - 14 a. Soil and substrata conditions, grading, and erosion and sediment control needed for wetland
 15 construction and long-term survival.
 - 16 b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant
 17 materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate,
 18 measures to protect plants from predation.
 - 19 c. Water quality parameters, water source, water depths, water control structures, and water level
 20 maintenance practices needed to achieve the necessary hydrologic conditions.
- 21 5. A five (5) year monitoring, maintenance, and replacement program shall be included in all plans. At a
 22 minimum, a project applicant shall provide an annual report that documents milestones, successes, problems,
 23 and contingency actions. Photographic monitoring stations shall be established and photographs shall be used
 24 to monitor the replacement wetland.
- 25 6. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to
 26 successfully execute a wetlands compensation plan.

27 (I. Wetlands enhancement projects shall be consistent with Section 40.240.840(H)).

28 (Amended: Ord. 2006-05-04)

29 J. Determining the exact location of the ordinary high water mark or normal pool elevation shall be the
 30 responsibility of the project applicant. The responsible official may verify the accuracy of, and may render
 31 adjustments to, an ordinary high water mark or normal pool delineation. In the event the adjusted boundary
 32 delineation is contested by the applicant, the responsible official shall, at the project applicant's expense, obtain
 33 professional services to render a final delineation.

34 K. Water Resources Mitigation Plans.

35 Mitigation plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond,
 36 lake or buffer area. A written plan addressing the guidelines in this section is also required for voluntary
 37 enhancement projects. Plans shall satisfy the following guidelines and any others required by federal and state
 38 agencies:

- 39 1. Mitigation plans are the responsibility of the project applicant; they shall be prepared by qualified
 40 professionals.
- 41 2. All plans shall include an assessment of the physical characteristics and natural functions of the affected
 42 stream, pond, lake, or buffer zone. The assessment shall include hydrology, flora, and fauna.

1 3. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour
 2 intervals of at least two (2) feet, slope percentages, and final grade elevations; and other technical information
 3 shall be provided in sufficient detail to explain and illustrate:

- 4 a. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to
 successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.
- 6 b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant
 materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate,
 measures to protect plants from predating.
- 9 c. Water-quality parameters, construction techniques, management measures, and design specifications
 10 needed to maintain hydrologic conditions and water quality.

11 4. A minimum three (3) year monitoring, maintenance, and replacement program shall be included in all
 12 rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that
 13 documents milestones, successes, problems, and contingency actions. Three years after an aquatic area or
 14 buffer zone is rehabilitated or enhanced, at least seventy-five (75) percent of the replacement vegetation shall
 15 survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet
 16 this guideline Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

17 5. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to
 18 successfully execute and monitor a mitigation plan.

19

20 **Section 57. Repealer.** CCC Section 40.240.850 is repealed.
 21

22 **40.240.850 General Management Area Stream, Pond, Lake and Riparian Area Review Criteria**

23 **A. Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas.**

24 1. If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be
 25 responsible for determining the exact location of the ordinary high water mark or normal pool elevation.

26 2. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds,
 27 lakes, and their buffer zones shall include:

- 28 a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a
 scale providing greater detail;
- 30 b. The exact boundary of the ordinary high water mark or normal pool elevation and prescribed buffer
 zone; and
- 32 e. A description of actions that would alter or destroy the stream, pond, lake, or riparian area.

33 (Amended: Ord. 2018-03-04)

34 **B. Uses.**

35 Uses allowed outright in streams, ponds, lakes, and their buffer zones are listed in Section 40.240.120.

36 (Amended: Ord. 2018-03-04)

37 **C. The following uses may be allowed in streams, ponds, lakes and riparian areas, and their buffer zones, when**
 38 **approved pursuant to Section 40.240.850(E), and reviewed under the applicable provisions of Sections 40.240.800**
 39 **through 40.240.900; provided, that proposed uses in streams, ponds, lakes, and their buffer zones shall be evaluated**
 40 **for adverse effects, including cumulative effects, and adverse effects shall be prohibited.**

1 1. The modification, expansion, replacement, or reconstruction of serviceable structures; provided, that such
2 actions would not:

- 3 a. Increase the size of an existing structure by more than one hundred percent (100%);
4 b. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; or
5 e. Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding
6 further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the
7 stream, pond, lake, or buffer zone than the existing structure.

8 2. The construction of minor water related recreation structures that are available for public use. Structures
9 in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of
10 impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

11 3. The construction of minor water dependent structures that are placed on pilings, if the pilings allow
12 unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to
13 dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and
14 wildlife management structures that are constructed by federal, state, or tribal resource agencies.

15 (Amended: Ord. 2018-03-04)

16 D. Uses not listed in Section 40.240.850(B) and (C) may be allowed in streams, ponds, lakes, and riparian areas,
17 when approved pursuant to Section 40.240.850(F) and reviewed under the applicable provisions of Section
18 40.240.800 through 40.240.900.

19 E. 1. Applications for modifications to serviceable structures and minor water dependent and water related
20 structures in aquatic and riparian areas shall demonstrate that:

- 21 a. Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone
22 and/or minimizing the impacts of the structure do not exist;
- 23 b. All reasonable measures have been applied to ensure that the structure will result in the minimum
24 feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of
25 streams, ponds, lakes, and riparian areas;
- 26 c. The structure will be constructed using best management practices;
- 27 d. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent
28 practicable; and
- 29 e. The structure complies with all applicable federal, state, and local laws.

30 2. Applications for all other review uses in wetlands, streams, ponds, and lakes shall demonstrate that:

- 31 a. The proposed use is water dependent, or is not water dependent but has no practicable alternative as
32 determined by Section 40.240.840(F)(1), substituting the term "stream," "pond," "lake," or "riparian area"
33 as appropriate.
- 34 b. The proposed use is in the public interest as determined by Section 40.240.840(F)(2), substituting
35 the term "stream," "pond," "lake," or "riparian area" as appropriate.
- 36 c. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to
37 water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or
38 buffer zone. At a minimum, the following mitigation measures shall be considered when new uses are
39 proposed in streams, ponds, lakes, and buffer zones:

- 1 (1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance.
2 The Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods
3 for in water work.
- 4 (2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and
5 riparian vegetation.
- 6 (3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
- 7 (4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and
8 should serve multiple purposes and properties.
- 9 (5) Stream channels should not be placed in culverts unless absolutely necessary for property
10 access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and
11 their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the
12 channel's width and grade should be used.
- 13 (6) Temporary and permanent control measures should be applied to minimize erosion and
14 sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree
15 protection, sediment barriers, infiltration systems, and culverts.
- 16 d. Groundwater and surface water quality will not be degraded by the proposed use.
- 17 e. Those portions of a proposed use that are not water dependent or have a practicable alternative will
18 be located outside of stream, pond, and lake buffer zones.
- 19 f. The proposed use complies with all applicable federal, state, and county laws.
- 20 g. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and
21 enhancement. Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage,
22 and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area
23 has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent
24 practicable. When a project area cannot be completely rehabilitated, such as when a boat launch
25 permanently displaces aquatic and riparian areas, enhancement shall also be required. The following
26 rehabilitation and enhancement guidelines shall apply:
- 27 (1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation
28 and enhancement plan.
- 29 (2) Natural hydrologic conditions shall be replicated, including current patterns, circulation,
30 velocity, volume, and normal water fluctuation.
- 31 (3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width,
32 length, cross sectional profile, and gradient.
- 33 (4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
- 34 (5) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.
- 35 (6) Fish and wildlife habitat features shall be replicated, including pool riffle ratios, substrata, and
36 structures. Structures include large woody debris and boulders.
- 37 (7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant
38 species that replicate the original vegetation community.
- 39 (8) Rehabilitation and enhancement efforts shall be completed no later than ninety (90) days after
40 the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(9) Three (3) years after an aquatic area or buffer zone is rehabilitated or enhanced, at least seventy-five percent (75%) of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

F. Stream, Pond, and Lake Buffer Zones.

1.—Buffer zones shall generally be measured landward from the ordinary high water mark on a horizontal scale that is perpendicular to the ordinary high water mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

- a. Streams verified by state or federal resource management agencies as habitat for species recognized to be threatened or endangered by the U.S. Fish and Wildlife Service, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources: one hundred fifty (150) feet.
 - b. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year round pools, and perennial streams: one hundred (100) feet.
 - c. Intermittent streams; provided, that they are not used by anadromous or resident fish: fifty (50) feet.
 - d. Ponds and Lakes. Buffer zone widths shall be based on dominant vegetative community as determined by Section 40.240.840(G)(2), substituting the term "pond" or "lake" as appropriate.

2. Except as otherwise allowed, buffer zones shall be retained in their natural condition.

3. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.))

~~4.—Determining the exact location of the ordinary high water mark or normal pool elevation shall be the responsibility of the project applicant. The responsible official may verify the accuracy of, and may render adjustments to, an ordinary high water mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the project applicant's expense, obtain professional services to render a final delineation.~~

G. ~~Rehabilitation and Enhancement Plans.~~

— Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

1. Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.
 2. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.
 3. Plan view and cross sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least two (2) feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

 - a. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.
 - b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predating.
 - c. Water quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

1 4. A three (3) year monitoring, maintenance, and replacement program shall be included in all rehabilitation
 2 and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents
 3 milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all
 4 rehabilitation and enhancement efforts.

5 5. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to
 6 successfully execute and monitor a rehabilitation and enhancement plan.

7 H. Wetlands enhancement projects shall be consistent with Section 40.240.840(H).

8 (Amended: Ord. 2006-05-04)

10 Section 58. **Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.860, and most recently
 11 amended by Sec. 6 of Ord. 2018-03-04 are each hereby amended as follows:

13 **40.240.860 General Management Area Sensitive Wildlife Review Criteria**

14 A. Site Plans and Field Surveys for Review Uses Near Priority Habitats and Sensitive Wildlife Sites~~((Sensitive~~
 15 ~~Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife))~~.

16 1. Except uses allowed outright, proposed uses may be allowed within one thousand (1,000) feet of a Priority
 17 Habitat or sensitive wildlife area or site subject to compliance with 40.240.800 through 40.240.900 and
 18 40.240.860.E

19 2~~((4))~~. Proposed uses within one thousand (1,000) feet of a Priority Habitat or sensitive wildlife~~((area or))~~
 20 site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

21 ~~((a))~~ “Sensitive wildlife areas” in the Columbia Gorge means the following land and water areas that
 22 appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- 23 (1) Bald eagle habitat;
- 24 (2) Deer and elk winter range;
- 25 (3) Elk habitat;
- 26 (4) Mountain goat habitat;
- 27 (5) Peregrine falcon habitat;
- 28 (6) Pika colony area;
- 29 (7) Pileated woodpecker habitat;
- 30 (8) Pine marten habitat;
- 31 (9) Shallow water fish habitat (Columbia River);
- 32 (10) Special streams;
- 33 (11) Special habitat area;
- 34 (12) Spotted owl habitat;
- 35 (13) Sturgeon spawning area;
- 36 (14) Tributary fish habitat;

1 (15) Turkey habitat;

2 (16) Waterfowl area;

3 (17) Western pond turtle habitat.

4 b. "Sensitive wildlife sites" means sites that are used by animal species that are:

5 (1) Listed as endangered or threatened pursuant to federal or state endangered species acts; and

6 (2) Listed as endangered, threatened, sensitive, or candidate by the Washington Fish and Wildlife
7 Commission, or considered to be of special interest to the public (limited to great blue heron, osprey,
8 golden eagle, and prairie falcon)).

9 3((2)). In addition to the information required in all site plans, ((site plans for)) uses within one thousand
10 (1,000) feet of a Priority Habitat or sensitive wildlife ((area or)) site shall include a map prepared at a scale of
11 one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

12 4. Proposed uses that would adversely affect Priority Habitats or sensitive wildlife sites shall be prohibited.

13 (Amended: Ord. 2018-03-04)

14 B. Uses.

15 Uses allowed outright in sensitive wildlife areas are listed in Section 40.240.120.

16 C. Field Survey.

17 A field survey to identify Priority Habitat and sensitive wildlife ((areas or))sites shall be required for:

18 1. Land divisions that create four (4) or more parcels;

19 2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities,
20 boat ramps, and visitor information and environmental education facilities;

21 3. Public transportation facilities that are outside improved rights-of-way;

22 4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and

23 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes,
24 equipment, and appurtenances and other project-related activities except when all of their impacts will occur
25 inside previously disturbed road, railroad or utility corridors, or existing development utility sites, that are
26 maintained annually.

27 6. Field surveys shall cover all areas affected by the proposed use or recreation development((facility)).
28 They shall be conducted by a professional wildlife biologist hired by the project applicant. All Priority Habitat
29 and sensitive wildlife ((areas and))sites discovered in a project area shall be described and shown on the site
30 plan map.

31 (Amended: Ord. 2007-11-13)

32 D. Uses not listed in Section 40.240.860(B) may be allowed within one thousand (1,000) feet of a sensitive
33 wildlife area or site, when approved pursuant to Section 40.240.860(E) and reviewed under the applicable provisions
34 of Sections 40.240.800 through 40.240.900.

35 E. The approximate locations of sensitive wildlife sites are maintained by the Gorge Commission, Forest Service,
36 and state wildlife agencies. State wildlife biologists will help determine if a new use would adversely affect a
37 Priority Habitat or sensitive wildlife area or site. Uses that are proposed within one thousand (1,000) feet of a
38 Priority Habitat or sensitive wildlife ((area or)) site shall be reviewed as follows:

1 1. Site plans shall be submitted to the Washington Department of Fish and Wildlife by the responsible
 2 official. State wildlife biologists will review the site plan and their field survey records and:

- 3 a. Identify or((4)) verify the precise location of the Priority Habitat or sensitive wildlife ((area or))site;
- 4 b. Ascertain whether the Priority Habitat or sensitive wildlife ((area))or site is active or abandoned;
 5 and
- 6 c. Determine if the proposed use may compromise the integrity of the wildlife habitat ((area))or site or
 7 occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or
 8 rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify ((the))
 9 wildlife ((inventory))data and assess the potential effects of a proposed use.

10 2. Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists,
 11 a wildlife survey and mitigation plan shall be required. This criterion shall not apply to forest practices that are
 12 otherwise allowed and that do not violate conditions of approval for other approved uses.

13 3. The following factors may be considered when site plans are reviewed:

- 14 a. Biology of the affected wildlife species;
- 15 b. Published guidelines regarding the protection and management of the affected wildlife species. For
 16 example, t((F))he Washington Department of Fish and Wildlife has prepared guidelines for a variety of
 17 species, including the western pond turtle, the peregrine falcon, Oregon white oak and the Larch Mountain
 18 salamander((Rodrick and Milner, 1991));
- 19 c. Physical characteristics of the subject parcel and vicinity, including topography and vegetation;
- 20 d. Historic, current, and proposed uses in the vicinity of the Priority Habitat or sensitive wildlife ((area-
 21 or))site;
- 22 e. Existing condition of the Priority Habitat or sensitive wildlife ((area or)) site and the surrounding
 23 habitat((and the useful life of the area or site)).

24 4((3)). The wildlife protection process may terminate if the responsible official, in consultation with the
 25 Washington Department of Fish and Wildlife, determines:

- 26 a. The sensitive wildlife ((area or)) site is not active; or
- 27 b. The proposed use would not compromise the integrity of the Priority Habitat or sensitive wildlife –
 28 ((area or)) site or occur during the time of the year when wildlife species are sensitive to disturbance.

29 5((4)). If the responsible official, in consultation with the Washington Department of Fish and Wildlife,
 30 determines that the proposed use would have only minor effects on the Priority Habitat or sensitive wildlife –
 31 ((wildlife area or))site that could be eliminated through ((mitigation))measures recommended by the state
 32 wildlife biologist or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent
 33 to the applicant that describes the effects and measures needed to eliminate them. If the project applicant
 34 accepts these recommendations, the responsible official or examiner shall ((will)) incorporate them into the
 35 ((development review order)) administrative or examiner's decision and the wildlife protection process may
 36 conclude.

37 6((5)). The project applicant shall prepare a wildlife mitigation plan ((management))plan if the responsible
 38 official, in consultation with the Washington Department of Fish and Wildlife, determines that the proposed use
 39 would adversely affect a Priority Habitat or sensitive wildlife ((area or))site and the effects of the proposed use
 40 cannot be eliminated through site plan modifications or project timing.

41 7((6)). The responsible official shall submit a copy of all field surveys and wildlife ((management))
 42 mitigation –plans to Washington Department of Fish and Wildlife. The Washington Department of Fish and

1 Wildlife will have thirty((twenty)) (3((2))) days from the date that a field survey or management plan is
 2 ((mailed-))sent to submit written comments to the responsible official.

3 8. The responsible official or examiner shall record and address any written comments submitted by the
 4 Washington Department of Fish and Wildlife in the ((land use review order))administrative or examiner's
 5 decision.

6 9. Based on the comments from the Washington Department of Fish and Wildlife, the responsible official or
 7 examiner will make a ((final)) decision on whether the proposed use would be consistent with the wildlife
 8 policies and guidelines. If the ((final)) decision contradicts the comments submitted by the Washington
 9 Department of Fish and Wildlife, the responsible official or examiner shall justify how the opposing conclusion
 10 was reached.

11 10. The responsible official or examiner shall require the applicant to revise the wildlife ((management-
 12))mitigation plan as necessary to ensure that the proposed use would not adversely affect a Priority Habitat or
 13 sensitive wildlife ((area or))site.

14 11. If the responsible official discovers a new protected wildlife location during the review process, the
 15 responsible official shall submit this information to the Washington Dept of Fish and Wildlife to be updated in
 16 their species databases.

17 F. Wildlife ((Management))Mitigation Plans.

18 Wildlife ((management))mitigation plans shall be prepared when a proposed use is likely to adversely affect a
 19 Priority Habitat or sensitive wildlife ((area or))site. Their primary purpose is to document the special characteristics
 20 of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the
 21 project applicant to redesign the proposed use in a manner that protects Priority Habitats and sensitive wildlife
 22 ((areas and))sites, maximizes ((his/her))their development options, ((and)) mitigates temporary impacts to the
 23 sensitive wildlife ((area or)) site ((and)) or buffer zone, and offsets unavoidable negative impacts to Priority Habitats
 24 and sensitive wildlife sites.((-)) Wildlife ((management))mitigation plans shall meet the following guidelines:

25 1. Wildlife management mitigation plans shall be prepared by a professional wildlife biologist hired by the
 26 project applicant.

27 2. All relevant background information shall be documented and considered, including biology of the
 28 affected species, published protection and management guidelines, physical characteristics of the subject
 29 parcel, past and present use of the subject parcel, and ((useful life))habitat value of the wildlife ((area or))site.

30 3. Where applicable, ((T))the core habitat of the rare ((sensitive-))wildlife species shall be delineated. It
 31 shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to
 32 maintain the long-term use and integrity of the wildlife ((area or)) site.

33 4. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not
 34 adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the
 35 site plan map and shall reflect the physical characteristics of the project site and the biology of the affected
 36 species.

37 5. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone
 38 shall be regulated to protect ((sensitive-))the rare wildlife species. The timing and duration of all uses shall also
 39 be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to
 40 disturbance. The following shall apply:

41 a. New uses shall generally be prohibited within the core habitat. Exceptions may include uses that
 42 have temporary and negligible effects, such as the installation of minor underground utilities or the
 43 maintenance of existing structures. ((Low intensity, nondestructive uses may be conditionally authorized-
 44 in the core habitat.))

1 b. Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally
 2 authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary
 3 effects on the wildlife buffer zone and rehabilitation ((and))or enhancement will be completed before a
 4 particular species returns.

5 6. Rehabilitation ((and))or enhancement shall be required when new uses are authorized within wildlife
 6 buffer zones. When a buffer zone has been altered ((or degraded))in the past, it shall be rehabilitated to its
 7 natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as
 8 when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement
 9 shall achieve a no net loss of the integrity of the wildlife ((area or))site. Rehabilitation and enhancement
 10 actions shall be documented in the wildlife ((management)) mitigation plan and shall include a map and text.

11 12. The applicant shall prepare and implement a three (3) year monitoring plan when the affected ((wildlife-)
 12 area or))Priority Habitat or sensitive wildlife site is occupied by a species that is listed as endangered or
 13 threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of
 14 the ((wildlife area))Priority Habitat or sensitive wildlife ((or))site and the success of rehabilitation ((and))or
 15 enhancement actions.

16 8. At the end of three (3) years, rehabilitation and enhancement efforts may conclude if they are successful. In
 17 instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended
 18 until the applicant satisfies the ((rehabilitation and enhancement))wildlife mitigation plan guidelines.

19 G. New Fences in Deer and Elk Winter Range.

20 1. New fences in deer and elk winter range ((shall))may be allowed only when necessary to control
 21 livestock or exclude wildlife from specified areas, such as gardens, Priority Habitat or sensitive wildlife sites.
 22 The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

23 2. New and replacement fences that are allowed in winter range shall comply with the guidelines in the
 24 Forest Service document *Specifications for Structural Range Improvements* (Sanderson, et al., 1990), as
 25 summarized below, , and may be revised from time to time, unless the applicant demonstrates the need for an
 26 alternative design. To allow deer and other wildlife safe passage:

27 a. To make it easier for deer to jump over the fence, the top wire shall not be more than forty-two (42)
 28 inches high.

29 b. The distance between the top two (2) wires is critical for adult deer because their hind legs often
 30 become entangled between these wires. A gap of at least ten (10) inches shall be maintained between the
 31 top two (2) wires to make it easier for deer to free themselves if they become entangled.

32 c. The bottom wire shall be at least sixteen (16) inches above the ground to allow fawns to crawl under
 33 the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

34 d. Stays, or braces placed between strands of wire, shall be positioned between fence's posts where
 35 deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle
 36 free if their hind legs become caught between the top two (2) wires.

37 3. Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required
 38 to meet specific and immediate needs, such as controlling hogs and sheep.

39 4. Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster
 40 response, shall comply with Section 40.240.860(G)(2).

41 (Amended: Ord. 2006-05-04)

1 **Section 59. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.870, and most recently
 2 amended by Sec. 7 of Ord. 2018-03-04 are each hereby amended as follows:
 3

4 **40.240.870 General Management Areas Rare Plant Review Criteria**

5 A. ((Sensitive))Rare Plants and Site Plans for Review of Uses Near ((Sensitive)) Rare Plants.

6 1. Proposed uses shall not adversely affect rare ((sensitive))plants. “rare ((Sensitive))plants” ((means plant-
 7 species that))are:

8 a. Endemic to the Columbia River Gorge and vicinity. Table 40.240.870-1. lists the endemic plants as
 9 of the date of adoption of the Management Plan revision, which the Gorge Commission developed in
 10 consultation with the Washington Natural Heritage Program; ((or))

11 b. Listed as endangered or threatened pursuant to federal or state endangered species acts; ((or))

12 c. Designated global or state status rank 1, 2, or 3 by the ((Listed as endangered, threatened, or-
 13 sensitive by the Oregon))Washington Natural Heritage Program. This includes designated native plant
 14 communities.

15 d. Updated lists of plant species and ecosystems included in (b) and (c) above can be found on the
 16 website for the Washington Natural Heritage Program. The Forest Service and the Gorge Commission also
 17 maintain updated lists.

18 2. In addition to the information required in site plans, site plans for uses within one thousand (1,000) feet of
 19 a ((sensitive))rare plant site shall include a map prepared at a scale of one (1) inch equals one hundred (100)
 20 feet (1:1,200), or a scale providing greater detail.

21 3. Proposed uses within one thousand (1,000) feet of a rare ((sensitive))plant shall be evaluated for adverse
 22 effects, including cumulative effects, and adverse effects shall be prohibited.

23 (Amended: Ord. 2018-03-04)

Table 40.240.870-1. Columbia Gorge and Vicinity Endemic Plant Species

Common Name	Scientific Name
<u>Howell's bentgrass</u>	<u><i>Agrostis howellii</i></u>
<u>Hood River milk-vetch</u>	<u><i>Astragalus hoodianus</i></u>
<u>Smooth-leaf douglasia</u>	<u><i>Douglasia laevigata</i> var. <i>laevigata</i></u>
<u>Howell's daisy</u>	<u><i>Erigeron howellii</i></u>
<u>Columbia Gorge daisy</u>	<u><i>Erigeron oreganus</i></u>
<u>Klickitat biscuitroot</u>	<u><i>Lomatium klickitatense</i></u>
<u>Long-beard hawkweed</u>	<u><i>Hieracium longiberbe</i></u>
<u>Smooth desert parsley</u>	<u><i>Lomatium laevigatum</i></u>
<u>Suksdorf's desert parsley</u>	<u><i>Lomatium suksdorffii</i></u>
<u>Barrett's penstemon</u>	<u><i>Penstemon barrettiae</i></u>
<u>Obscure buttercup</u>	<u><i>Ranunculus reconditus</i></u>
<u>Oregon sullivantia</u>	<u><i>Sullivantia oregana</i></u>

Table 40.240.870-1. Columbia Gorge and Vicinity Endemic Plant Species

<u>Columbia kittentails</u>	<u>Synthyris stellate</u>
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- 1
- 2 B. Uses.
- 3 Uses allowed outright in rare plant areas are listed in Section 40.240.120.
- 4 C. Field Survey. A field survey to identify ((sensitive)) rare plants shall be required for:
- 5 1. Land divisions that create four (4) or more parcels;
- 6 2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
- 7 3. Public transportation facilities that are outside improved rights-of-way;
- 8 4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
- 9
- 10 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project-related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually;
- 11
- 12 6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. They shall be conducted when plants are expected to be flowering or most easily detectable. Field surveys shall identify the precise location of the rare ((sensitive)) plants and delineate a two hundred (200) foot buffer zone. The results of a field survey shall be shown on the site plan map and kept confidential by the responsible official as required by state law.
- 13
- 14 D. Uses not listed in Section 40.240.870(B) may be allowed within one thousand (1,000) feet of a rare ((sensitive)) plant, when approved pursuant to Section 40.240.87((6))0(E), and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900.
- 15
- 16 E. Uses that are proposed within one thousand (1,000) feet of a ((sensitive))rare plant shall be reviewed as follows:
- 17
- 18 1. Site plans shall be submitted to the Washington Natural Heritage Program by the responsible official. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a two hundred (200) foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.
- 19
- 20 2. The rare plant protection process may conclude if the responsible official, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a ((sensitive))rare plant buffer zone.
- 21
- 22 3. New uses shall be prohibited within ((sensitive))rare plant ((species)) buffer zones, except those listed in Section 40.240.870(B).
- 23
- 24 4. If a proposed use must be allowed within a ((sensitive))rare plant buffer area in accordance with Section 40.240.150, the project applicant shall prepare a ((protection and rehabilitation)) mitigation plan pursuant to Section 40.240.870(F).

1 5. The responsible official shall submit a copy of all field surveys and mitigation ((protection and
 2 rehabilitation)) plans to the Washington Natural Heritage Program. The Natural Heritage Program staff will
 3 have twenty (20) days from the date that a field survey is ((mailed))sent to submit written comments to the
 4 responsible official.

5 6. The responsible official or examiner shall record and address any written comments submitted by the
 6 Natural Heritage Program staff in the land use review order.

7 7. Based on the comments from the Natural Heritage Program staff, the responsible official or examiner will
 8 make a((final)) decision on whether the proposed use would be consistent with the rare plant policies and
 9 guidelines. If the ((final))decision contradicts the comments submitted by the Natural Heritage Program staff,
 10 the responsible official or examiner shall justify how the opposing conclusion was reached.

11 F. ((Protection and Rehabilitation))Rare Plant Mitigation Plans.

12 ((Protection and rehabilitation)) Rare plant mitigation plans shall minimize and offset unavoidable impacts that
 13 result from a new use that occurs within a ((sensitive))rare plant buffer zone as the result of a variance. ((Protection-
 14 and rehabilitation plans shall meet the following guidelines:))

15 1. Rare plant mitigation ((Protection and rehabilitation))plans shall be prepared by a professional botanist
 16 or plant ecologist hired by the project applicant.

17 2. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground
 18 disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

19 3. ((Sensitive-))Rare plants that will be ((destroyed))altered shall be transplanted or replaced, to the
 20 maximum extent practicable. “Replacement” is used here to mean the establishment of a particular plant
 21 species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds,
 22 cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable.
 23 The project applicant shall ensure that at least seventy-five (75) percent of the replacement plants survive three
 24 (3) years after the date they are planted.

25 4. ((Sensitive-))Rare plants and their surrounding habitat that will not be altered((or destroyed)) shall be
 26 protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing,
 27 conservation easements, livestock management, and noxious weed control.

28 5. Habitat of a ((sensitive))rare plant that will be affected by temporary uses shall be rehabilitated to a
 29 natural condition.

30 6. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall
 31 be implemented immediately after the plants and their surrounding habitat are disturbed.

32 7. Rare plant mitigation ((Protection and rehabilitation)) plans shall include maps, photographs, and text. The
 33 text shall:

34 a. Describe the biology of ((sensitive)) rare plant species that will be affected by a proposed use.

35 b. Explain the techniques that will be used to protect ((sensitive))rare plants and their surrounding
 36 habitat that will not be altered((or destroyed)).

37 c. Describe the((rehabilitation and enhancement)) mitigation actions that will minimize and offset the
 38 impacts that will result from a proposed use.

39 d. Include a three (3) year monitoring, maintenance, and replacement program. The project applicant
 40 shall prepare and submit to the responsible official an annual report that documents milestones, successes,
 41 problems, and contingency actions.

42 G. ((Sensitive-))Rare Plant Buffer Zones.

1 1. A two hundred (200) foot buffer zone shall be maintained around ((sensitive-))rare plants. Buffer areas
 2 shall remain in an undisturbed, natural condition.

3 2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation,
 4 manmade features, or natural plant habitat boundaries negate the need for a two hundred (200) foot radius.
 5 Under no circumstances shall the buffer zone be less than twenty-five (25) feet.

6 3. Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by
 7 the project applicant:

8 a. Identifies the precise location of the ((sensitive-))rare plants;

9 b. Describes the biology of the ((sensitive-))rare plants; and

10 c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on
 11 the affected plants and the surrounding habitat that is vital to their long-term survival.

12 d((4)). All requests shall be prepared as a written report. Published literature regarding the biology of
 13 the affected plants and recommendations regarding their protection and management shall be cited. The
 14 report shall include detailed maps and photographs ((All requests shall be prepared as a written report.
 15 Published literature regarding the biology of the affected plants and recommendations regarding their
 16 protection and management shall be cited. The report shall include detailed maps and photographs.))

17 4((5)). The responsible official shall submit all requests to reduce ((sensitive)) rare plant species buffer areas
 18 to the Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days
 19 from the date that such a request is ((mailed-))sent to submit written comments to the responsible official.

20 5. The responsible official or examiner shall record and address any written comments submitted by the
 21 Washington Natural Heritage Program in the ((development review order))administrative or examiner's
 22 decision.

23 6. Based on the comments from the Washington Natural Heritage Program, the responsible official or
 24 examiner will make a((final)) decision on whether the reduced buffer area is justified. If the ((final-))decision
 25 contradicts the comments submitted by the Natural Heritage Program staff, the responsible official or examiner
 26 shall justify how the opposing conclusion was reached.

27 (Amended: Ord. 2006-05-04)

29 **Section 60. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.880, and most recently
 30 amended by Sec. 8 of Ord. 2018-03-04 are each hereby amended as follows:

32 **40.240.880 Special Management Areas Water Resources / Wildlife and Plants((Natural Resource)) Review**
 33 **Criteria**

34 A. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using
 35 the following guidelines to ensure that the natural resources are protected from adverse effects. Proposed uses that
 36 would adversely affect water resources (wetlands, streams, ponds, lakes, and riparian areas) shall be prohibited.

37 Proposed uses that would adversely affect rare wildlife or rare plant areas or sites shall be prohibited. Uses adversely
 38 affect rare wildlife or rare plant sites and areas when they compromise the integrity of an area or site or occur during
 39 a time of the year when affected wildlife or plant species are sensitive to disturbance. Cumulative effects analysis is
 40 not required for expedited review uses or developments. Comments from state and federal agencies shall be
 41 carefully considered.

42 (Amended: Ord. 2018-03-04)

43 B. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas).

1 1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified in
2 subsections (B)(1)(b)(1) and (2) of this section. These buffer zones are measured horizontally from a wetland,
3 stream, lake, or pond boundary as defined below.

4 a. All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with
5 a mitigation plan.

6 b. Buffer zones shall be measured outward from the bank full flow boundary for streams, the high
7 water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland
8 delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond
9 or lake boundary. The following buffer zone widths shall be required:

10 (1) A minimum two hundred (200) foot buffer on each wetland, pond, lake, and each bank of a
11 perennial or fish-bearing stream, some of which can be intermittent.

12 (2) A fifty (50) foot buffer zone along each bank of intermittent (including ephemeral), non-fish-
13 bearing streams.

14 (3) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-
15 of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the
16 following:

17 (a) The wetland within the right-of-way is a drainage ditch not part of a larger wetland
18 outside of the right-of-way;

19 (b) The wetland is not critical habitat; and

20 (c) Proposed activities within the right-of-way would not adversely affect a wetland adjacent
21 to the right-of-way.

22 c. The buffer width shall be increased for the following:

23 (1) When the channel migration zone exceeds the recommended buffer width, the buffer width shall
24 extend to the outer edge of the channel migration zone.

25 (2) When the frequently flooded area exceeds the recommended riparian buffer zone width, the
26 buffer width shall be extended to the outer edge of the frequently flooded area.

27 (3) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the
28 buffer width shall be extended to include the hazard area.

29 d. Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

30 (1) Integrity and function of the buffer zones are maintained;

31 (2) Total buffer area on the development proposal is not decreased;

32 (3) Width reduction shall not occur within another buffer; and

33 (4) Buffer zone width is not reduced more than fifty percent (50%) at any particular location.

34 Such features as intervening topography, vegetation, manmade features, natural plant or wildlife
35 habitat boundaries, and floodplain characteristics should be considered.

36 e. Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist,
37 plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:

38 (1) Identifies the precise location of the ((sensitive-))rare wildlife or((A)) plant or water resource;

- (2) Describes the biology of the ((sensitive))rare wildlife or⁽⁴⁾ plant or hydrologic condition of the water resource; and

(3) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife or⁽⁴⁾ plant and their surrounding habitat that is vital to their long-term survival or water resource and its long-term function.

f. The responsible official shall submit all requests to reconfigure ((sensitive))rare wildlife or⁽⁴⁾ plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the responsible official or examiner will make a((final)) decision on whether the reconfigured buffer zones are justified. If the ((final)) decision contradicts the comments submitted by the federal and state agencies, the responsible official or examiner shall justify how the opposing conclusion was reached.

(1) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(2) The applicant shall be responsible for identifying all water resources and their appropriate buffers.

(3) Wetlands boundaries shall be delineated using the following:

(a) The approximate location and extent of wetlands in the National Scenic Area as shown on the National Wetlands Inventory (U.S. Department of the Interior((, 1987))). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(b) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(c) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the ((1987)) *Corps of Engineers Wetland Delineation Manual* (online edition)and applicable Regional Supplements.

(d) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures((, such as a soil scientist, botanist, or wetlands ecologist)).

Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

The responsible official may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the responsible official shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

Buffer zones shall be undisturbed unless the following criteria have been satisfied:

a. The proposed use must have no practicable alternative as determined by the practicable alternative test in 40.240.880.E. Those portions of a proposed use that have a practicable alternative will not be located in water resources ((wetlands, streams, ponds, lakes, and riparian areas and)) or their buffer zones.

b. Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration or enhancement activities as permitted when all of the following criteria have been met:

(1) A documented public safety hazard exists or a restoration or enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question;

1 (2) Impacts to the wetland must be the last possible documented alternative in fixing the public
 2 safety concern or completing the restoration or/enhancement project; and

3 (3) The proposed project minimizes the impacts to the wetland.

4 c. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset
 5 by deliberate restoration and enhancement or creation (wetlands only) measures as required by the
 6 completion of a SMA mitigation plan.

7 5. Proposed uses and development within ((wetlands, streams, ponds, lakes, riparian areas)) water resources
 8 and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that
 9 are adverse effects shall be prohibited.

10 (Amended: Ord. 2018-03-04)

11 C. Wildlife and Plants.

12 1. Protection of ((sensitive)) wildlife or(()) plant areas and sites shall begin when proposed new
 13 developments or uses are within one thousand (1,000) feet of a ((sensitive)) rare wildlife or(()) rare plant area
 14 or site((and/or area. Sensitive))Rare wildlife areas and endemic plants are those areas depicted in ((the))
 15 wildlife and plant data ((inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the
 16 Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan))
 17 including all sensitive wildlife sites and priority habitats listed in Table 40.240.870-1 and Table 40.240.880-1-
 18 ((this chapter)). The approximate locations of ((sensitive))rare wildlife and ((or)) plant areas and sites are
 19 shown in ((the))wildlife and rare plant ((inventory))data.

20 2. The responsible official shall submit site plans (of uses that are proposed within one thousand (1,000) feet
 21 of a ((sensitive))rare wildlife ((and))or rare plant area or site) for review to the Forest Service, the Washington
 22 Department of Fish and Wildlife for wildlife issues and the Washington Natural Heritage Program for plant
 23 issues.

24 3. The Forest Service wildlife biologists and((or)) botanists, in consultation with the appropriate state
 25 biologists, shall review the site plan and their field survey records. They shall:

26 a. Identify and/verify the precise location of the wildlife ((and))or plant area or site;

27 b. Determine if a field survey will be required;

28 c. Determine, based on the biology and habitat requirements of the affected wildlife or(()) plant
 29 species, if the proposed use would compromise the integrity and function of or result in adverse effects
 30 (including cumulative effects) to the wildlife and ((or)) plant area or site. This would include considering
 31 the time of year when wildlife and((or)) plant species are sensitive to disturbance, such as nesting, rearing
 32 seasons, or flowering season; and

33 d. Delineate the undisturbed two hundred (200) foot buffer on the site plan for ((sensitive))rare plants
 34 ((and))or the appropriate buffer for ((sensitive))rare wildlife areas or sites, including nesting, roosting,
 35 and perching sites.

36 (1) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

37 (a) Integrity and function of the buffer zones are maintained;

38 (b) Total buffer area on the development proposal is not decreased;

39 (c) Width reduction shall not occur within another buffer; and

(d) Buffer zone width is not reduced more than fifty percent (50%) at any particular location. Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and floodplain characteristics could be considered.

(2) Requests to reduce buffer zones shall be considered if an appropriate professional botanist, plant ecologist, wildlife biologist, or hydrologist, hired by the project applicant:

(a) Identifies the precise location of the ((sensitive))rare wildlife or(+) plant or water resource;

(b) Describes the biology of the (sensitive)rare wildlife or(the) plant or hydrologic condition of the water resource; and

(c) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife or(4) plant and their surrounding habitat that is vital to their long-term survival or to the water resource and its long-term function.

(3) The responsible official shall submit all requests to reconfigure ((sensitive))-rare wildlife or((/)) plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and, based on the comments from the state and federal agencies, the responsible official or examiner will make a ((final)) decision on whether the reduced buffer zones are justified. If the ((final)) decision contradicts the comments submitted by the federal and state agencies, the responsible official or examiner shall justify how the opposing conclusion was reached.

4. The responsible official, in consultation with the state and federal wildlife biologists and ~~((or))~~ botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed development ~~((s))~~ or uses do not compromise the integrity and function of or result in adverse effects to the wildlife and ~~((or))~~ plant area or site:

a. Published guidelines regarding the protection and management of the affected wildlife or(4) plant species. Examples include: (the) Washington Department of Fish and Wildlife (technical papers that include management) guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

b. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

c. Historic, current, and proposed uses in the vicinity of the ((sensitive))rare wildlife or(()) plant area or site.

d. Existing condition of the wildlife or(+) plant area or site and the surrounding habitat ((and the useful life)) of the area or site.

e. In areas of winter range, habitat components, such as forage, and thermal cover important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

f. The site plan is consistent with published guidance documents such as the Washington's Aquatic Habitat Guidelines (2002 or most recent version)(-State guidelines when they become finalized).

g. The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledging of young) and those periods specified.

h. The site plan illustrates that new development((§)) and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

1 i. Maintain, protect, and enhance the integrity and function of priority habitats ~~((such as old growth forests, talus slopes, and oak woodlands))~~ as listed in Table 40.240.880-1. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

5 5. The wildlife or(()) plant protection process may terminate if the responsible official, in consultation with the Forest Service and Washington Department of Fish and Wildlife, or Heritage Program, determines:

7 a. The ((sensitive-))rare wildlife area or site is not active; or

8 b. The proposed use is not within the buffer zones and would not compromise the integrity of the wildlife or(()) plant area or site; ((and)) or

10 c. The proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications).

12 If the project applicant accepts these recommendations, the responsible official or examiner shall incorporate them into the ((final))administrative or examiner's decision and the wildlife or(()) plant protection process may conclude.

15 6. If the measures in this section fail to eliminate the adverse ((a)) effects, the proposed project shall be prohibited, unless the project applicant can meet the practicable alternative test in 40.240.880.E ((subsection E)) of this section by preparing a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

19 7. The responsible official shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The ((Executive Director)) responsible official or examiner shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency or(()) heritage programs in the ((final)) decision. Based on the comments from the state and federal wildlife agency or(()) heritage program, the responsible official or examiner shall make a ((final)) decision on whether the proposed use would be consistent with the wildlife or(()) plant policies and guidelines. If the ((final)) decision contradicts the comments submitted by the state and federal wildlife agency or(()) heritage program, the responsible official or examiner shall justify how the opposing conclusion was reached.

27 8. The responsible official shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a ((sensitive-))rare wildlife or(()) plant area or site.

29 9. Proposed uses and developments within one thousand (1,000) feet of sensitive wildlife areas and sites or within one thousand (1,000) feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

32 (Amended: Ord. 2018-03-04)

33 D. Soil Productivity.

34 1. Soil productivity shall be protected using the following guidelines:

35 a. A description or illustration showing the mitigation measures used to control soil erosion and stream sedimentation.

37 b. New developments and land uses shall control all soil movement within the area shown on the site plan.

39 c. The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed fifteen percent (15%) of the project area.

1 d. Within one (1) year of project completion, eighty percent (80%) of the project area with surface
 2 disturbance shall be established with effective native ground cover species or other soil-stabilizing
 3 methods to prevent soil erosion until the area has eighty percent (80%) vegetative cover.

Table 40.240.880-1. Priority Habitats	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability.
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.
<u>Winter Range</u>	<u>Provides important wintering habitat for deer and elk.</u>

4 Priority Habitats are defined by the Forest Service and state wildlife agencies through State Wildlife Action Plan efforts.

5
 6 E. Practicable Alternative Test.

7 An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can
 8 be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A
 9 practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

10 1. The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in the
 vicinity that would avoid or result in less adverse effects on ((wetlands, ponds, lakes, riparian areas)) water
 resoucres, or wildlife or plant areas ((and))or sites.

13 2. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope,
 configuration, or density, or by changing the design of the use in a way that would avoid or result in less
 adverse effects on ((wetlands, ponds, lakes, riparian areas))water resources, or wildlife or plant areas ((and))or
 sites.

17 3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to
 reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land
 use designations. If a land use designation or fRecreation Intensity eClass is a constraint, an applicant must
 request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

21 F. SMA Mitigation Plans.

1. A mitigation plan shall be prepared when:
 2. a. The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, or wildlife or plant areas ((and)) or sites); and
 4. b. There is no practicable alternative as outlined in 40.240.880.E((subsektion (E) of this section))
5. 2. In all cases, M((m))itigation P((p))lans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist or((A)) ecologist for plant sites, a wildlife ((A))or fish biologist for wildlife or fish sites, and a qualified professional for water resource sites).
8. 3. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects ((sensitive))the identified water resources, and rare wildlife or((A)) plant areas and sites, that maximizes ((his/her))their development options, and that mitigates, through restoration, enhancement, creation and replacement measures, impacts to the water resources and((for)) wildlife and((A)) plant area or site and((for)) buffer zones.
13. 4. The applicant shall submit the mitigation plan to the responsible official. The responsible official shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the ((final)) decision contradicts the comments submitted by the state and federal wildlife agency or((A)) heritage program, the responsible official or examiner shall justify how ((it reached)) an opposing conclusion was reached.
17. 5. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.
19. 6. Mitigation plans shall include maps, photographs, and text. The text shall:
 20. a. Describe the biology and((for)) function of the ((sensitive))protected resources (e.g., wildlife or((A)) plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the ((sensitive))protected resource ((to be altered or destroyed)) and the condition of the resource that will result after restoration ((will))shall be required. Reference published protection and management guidelines.
 25. b. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the ((sensitive))protected resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.
 28. c. Explain the techniques that will be used to protect the ((sensitive))protected resources and their surrounding habitat that will not be altered ((or destroyed)) (for example((s)), delineation of core habitat of the ((sensitive))rare wildlife or((A)) plant species and key components that are essential to maintain the long-term use and integrity of the wildlife or((A)) plant area or site).
 32. d. Show how restoration, enhancement, and ((replacement))creation((A)) measures will be applied to ensure that the proposed use results in minimum feasible impacts to ((sensitive))protected resources, their buffer zones, and associated habitats.
 35. e. Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are not alternatives to avoidance. A proposed development or((A)) use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the responsible official ((local government)), appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.
40. 7. At a minimum, a project applicant shall provide to the responsible official a progress report every three (3) years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.
43. 8. A final monitoring report shall be submitted to the responsible official for review upon completion of the restoration, enhancement, created or replacement activity. This monitoring report shall document successes,

1 problems encountered, resource recovery, status of any ((sensitive))rare wildlife or(()) plant species and shall
 2 demonstrate the success of restoration ((and))or enhancement actions. The responsible official shall submit
 3 copies of the monitoring report to the Forest Service; who shall offer technical assistance to the responsible
 4 official in helping to evaluate the completion of the mitigation plan. In instances where restoration and
 5 enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the
 6 restoration and enhancement guidelines.

7 9. Mitigation measures to offset impacts to resources and((for)) buffers shall result in no net loss of water
 8 quality, natural drainage, fish((A))wildlife and(())plant habitat, and water resources by addressing the
 9 following:

10 a. Restoration and enhancement efforts shall be completed no later than one (1) year after the
 11 ((sensitive))protected resource or buffer zone has been altered((or destroyed)), or as soon thereafter as is
 12 practicable.

13 b. All natural vegetation within the buffer zone shall be retained to the greatest extent practicable.
 14 Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers,
 15 livestock management, and noxious weed control. Within five (5) years, at least seventy-five percent
 16 (75%) of the replacement vegetation ((must))shall survive. All plantings ((must))shall be with native
 17 plant species that replicate the original vegetation community.

18 c. Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural
 19 condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and
 20 herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and
 21 boulders.

22 d. If this standard is not feasible or practical because of technical constraints, a ((sensitive)) protected
 23 resource of equal or greater benefit may be substituted; provided, that no net loss of ((sensitive))protected
 24 resource functions occurs; and further provided, that the responsible official, in consultation with the
 25 appropriate state and federal agency, determines that such substitution is justified.

26 e. ((Sensitive))Rare plants that will be ((destroyed))altered shall be transplanted or replaced, to the
 27 maximum extent practicable. "Replacement" is used here to mean the establishment of a particular plant
 28 species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds,
 29 cuttings, or other appropriate methods.((Replacement shall occur as close to the original plant site as
 30 practicable. The project applicant shall ensure that at least seventy five percent (75%) percent of the
 31 replacement plants survive three (3) years after the date they are planted)). Replacement shall occur as
 32 close to the original plant site as practicable. The project applicant shall ensure that at least seventy-five
 33 percent (75%) percent of the replacement plants survive 3 years after the date they are planted.

34 f. Nonstructural controls and natural processes shall be used to the greatest extent practicable:

35 (1) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and
 36 should serve multiple purposes and properties.

37 (2) Stream channels shall not be placed in culverts unless absolutely necessary for property access.
 38 Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions.
 39 Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the
 40 Practical Alternative Test-in 40.240.880.E.(2)

41 (3) Fish passage shall be protected from obstruction.

42 (4) Restoration of fish passage should occur wherever possible.

43 (5) Show location and nature of temporary and permanent control measures that shall be applied to
 44 minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms
 45 and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(6) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(7) Those portions of a proposed use that are not water-dependent or that have a practicable alternative (~~(will)~~) shall be located outside of stream, pond, and lake buffer zones.

(8) Stream bank and shoreline stability shall be maintained or restored with natural vegetation.

(9) The size of restored, enhanced, and ~~((replacement-))~~created wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered ~~((or destroyed))~~:

Restoration:	2:1
Creation:	3:1
Enhancement:	4:1

g. Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for five (5) consecutive years. Self-functioning is defined by the expected function of the wetland as written in the M((m))itigation P((p))lan. The monitoring report shall be submitted to the responsible official ((local government)) to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the responsible official ((local government)) to help evaluate such reports and any subsequent activities associated with compliance.

h. Wetland restoration or(F) enhancement can be mitigated successfully by donating appropriate funds to a nonprofit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given in subsection (F)(9)(f)(9) of this section. These transactions shall be explained in detail in the mitigation plan and shall be fully monitored and documented in the monitoring report.

(Amended: Ord. 2006-05-04)

Section 61. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.890, and most recently amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

40.240.890 General Management Areas Recreation Resource Review Criteria

10.2.10.89(j) General Management Areas Recreation Resource Review Criteria
Each Recreation Intensity Class includes a description of the desired social, physical and managerial setting for recreation development within each Recreation Intensity Class. Each Recreation Intensity Class also includes a list of allowable uses. ((The following uses may be allowed within designated recreation intensity classifications, as delineated on the Columbia River Gorge National Scenic Area Management Plan Recreation Intensity Classifications map,)) subject to compliance with Sections 40.240.890(D) and (E).

A. Recreation Intensity Class 1 – Very Low Intensity.

1. Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent away from roads and recreation

1 sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and
2 recreation sites.

3 2. Physical and Managerial Setting: Predominately natural or natural appearing landscapes with rustic
4 improvements characterize this designation. Nodes of developed recreation facilities are allowed. Developed
5 recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but
6 harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle
7 control of users.

8 3. Trail development is simple and typically accommodate low use levels. Users are highly skilled with a
9 high degree of orienteering skills.

10 4. The following uses may be permitted.

11 a((4)). Parking areas ((for a maximum)), not to exceed a site-wide capacity of ten (10) ((cars for))
12 vehicles, when associated with any allowed uses in Recreation Intensity Class 1; Accommodations for
13 mass transportation facilities should be considered where compatible with the social and physical
14 settings.

15 b((2)). Trails for hiking, equestrian and mountain biking use;

16 c((3)). Pathways for pedestrian and bicycling use;

17 d((4)). Trailheads (with provisions for hitching rails and equestrian trailers at trailheads
18 accommodating equestrian use);

19 e5. Scenic viewpoints and overlooks;

20 f((6)). Wildlife and((7)) botanical viewing and nature study areas;

21 g((7)). River access areas;

22 ((8. Simple interpretive signs and/or displays, not to exceed a total of fifty (50) square feet;
23 9. Entry name signs not to exceed ten (10) square feet per sign;))

24 h((10)). Boat docks, piers or wharves;

25 i((44)). Picnic areas; and

26 j((42)). Restrooms((4)) and comfort facilities.

27 B. Recreation Intensity Class 2 – Low Intensity.

28 1. Social Setting: RIC 2 is characterized by opportunities to experience relaxation, physical fitness and
29 outdoor learning and where there is a moderate probability to experience solitude. Typically encounters with
30 other visitors throughout the designation is Low to Moderate. Visitor encounters are low to moderate on trails
31 and away from developed recreation sites and roads, and moderate to high near (within 1 mile) recreation
32 sites and roads.

33 2. Physical and Managerial Setting: Predominately natural or natural appearing landscapes with rustic
34 improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed.
35 Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable
36 but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle
37 control of users.

1 3. Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided
 2 for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and
 3 are challenging and involve intermediate to advance skills.

4 4. The following uses may be permitted.

5 a((4)). All uses permitted in Recreation Intensity Class 1;

6 b((2)). Parking areas ((for a maximum)), not to exceed a site-wide capacity of twenty-five (25)
 7 vehicles, when associated with ((cars, including spaces for campground units, to serve)) any allowed
 8 uses in Recreation Intensity Class 2; Parking spaces for campground units shall be included in this
 9 number. Accommodations for mass transportation facilities should be considered where compatible
 10 with the social and physical settings

11 ((3. Simple interpretive signs and displays, not to exceed a total of one hundred (100) square feet;))

12 4. Entry name signs not to exceed twenty (20) square feet per sign;))

13 c((5)). Boat ramps, not to exceed two (2) lanes; and

14 d((6)). Campgrounds for twenty (20) units or less, tent sites only.

15 C. Recreation Intensity Class 3 – Moderate Intensity.

16 1. Social Setting: A high degree of interaction with other visitors with opportunities to experience
 17 relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes
 18 this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and
 19 roads.

20 2. Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with
 21 characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for
 22 visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural
 23 characteristics of the landscape.

24 3. Trails typically accommodate moderate to high use and are well developed (native, gravel or paved
 25 surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide
 26 range of users who have intermediate skill level and minimal orienteering skills.

27 4. The following uses may be permitted.

28 a((4)). All uses permitted in Recreation Intensity Classes 1 and 2;

29 b((2)). Parking areas ((for a maximum)), not to exceed a site-wide capacity of seventy-five (75)
 30 vehicles, when associated with ((cars, including spaces for campground units, for)) any allowed uses in
 31 Recreation Intensity Class 3. Parking spaces for campground units shall be included in this number;

32 c. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all
 33 new Recreation Intensity Class 3 day-use recreation sites, and improvements to existing Class 3 day-use
 34 recreation sites where the improvement would increase the use of the site, except for sites predominantly
 35 devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical
 36 capacity of the site.

37 ((3. Interpretive signs, displays and/or facilities;))

38 4. Visitor information and environmental education signs, displays or facilities;

39 5. Entry name signs not to exceed thirty two (32) square feet per sign;))

1 d(6). Boat ramps, not to exceed three (3) lanes;

2 e(7). Concessions stands, ((pursuant to applicable policies in Chapter 4, Part I of the Management

3 Plan))consistent with the following:

4 (a) Private concessions and other commercial uses at public recreation sites may be allowed

5 pursuant to adopted policies of the public agency owning or managing the site. If a different

6 agency manages the site, that agency's policies shall apply, unless superseded by provisions of the

7 owning agency's policies.

8 (b) For commercial recreation sites and public recreation sites not owned or managed by a

9 public park agency with adopted concession policies, the following policies shall apply:

10 (1) Retail sales at campgrounds shall be limited to camping supplies for overnight

11 guests in dedicated space within the registration or central office building.

12 (2) Private concessions in permanent structures shall be limited to one structure per

13 park site. Sales shall be limited to those items necessary for enjoyment and use of

14 recreation opportunities at the site, including food and beverages and recreation

15 equipment rental.

16 (3) Mobile vendors may be permitted, subject to responsible official or examiner

17 approvals. This review shall address solid waste disposal, visual impacts of signs, traffic

18 circulation, and safety. Such uses shall be limited to the term of the recreation season, and

19 sales shall be limited to food and beverages and recreation equipment rental.; and

20 f(8)). Campgrounds for fifty (50) individual units or less for tents and ((for)) recreational vehicles,

21 with a total density of no more than ten (10) units per acre (density to be measured based on total size of

22 recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also

23 include one (1) group campsite area, in addition to the individual campground units or parking area

24 maximums allowed as described herein.

25 D. Approval Criteria for Recreation Uses.

26 All proposed recreation projects outside of Public Recreation zones shall comply with Sections 40.240.800

27 through 40.240.900, and shall satisfy the following:

28 1. Cumulative effects of proposed recreation projects on landscape settings shall be based on ((the))

29 40.240.800(C) ("compatible recreation use" guideline for the landscape setting in which the use is located)).

30 2. For proposed recreation projects in or adjacent to lands zoned Gorge Large-Scale or Small-Scale

31 Agriculture, or Gorge Small Woodland:

32 a. The use would not seriously interfere with accepted forest or agricultural practices on surrounding

33 lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply

34 with this criterion, depending upon project design and ((for)) site conditions.

35 b. A declaration has been signed by the project applicant or owner and recorded with county deeds and

36 records specifying that the applicant or owner is aware that operators are entitled to carry on accepted

37 forest or farm practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture or Gorge Small

38 Woodland.

39 3. For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed

40 campgrounds: The project applicant shall demonstrate that a sufficient quantity of water necessary for fire

41 suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to

42 the proposed facility, either through connection to a community water system or on-site wells, storage tanks,

43 sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project

44 applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire

1 suppression needs without adversely affecting the remainder of the water system with respect to fire
 2 suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall
 3 be constructed to a minimum of twelve (12) feet in width and a maximum grade of twelve percent (12%).
 4 Access drives shall be maintained to a level that is passable to fire-fighting equipment.

5 4. Trail or trailhead projects shall comply with [the following: \(\(applicable trails policies in the Management](#)
 6 [Plan.\)\)](#)

7 a. Where applicable, new trails should incorporate existing segments of older or historic trails,
 8 abandoned roads and railroad rights-of-way, and other previously developed areas suitable for recreation
 9 use to the maximum extent practicable.

10 b. Trails that are intended for multiple user groups shall be required to post signs at trailheads alerting
 11 users that multiple user groups may be present on the trail. Trails shall be designed such that user conflicts
 12 and safety issues are minimized.

13 c. Applications for new trails or trailheads shall include measures to minimize the potential spread of
 14 noxious weeds.

15 d. Applications for new trails or trailheads shall consider the potential of fire risk during critical fire
 16 hazard periods in developing the physical and managerial setting of the site.

17 5. For proposed projects providing ((boating or windsurfing)) recreation access to the Columbia River or its
 18 tributaries: ((Compliance)) applicants shall demonstrate that the new facility is consistent with ((applicable-
 19 "River Access and Protection of Treaty Rights" objectives in the Management Plan)) and does not affect or
 20 modify tribal treaty rights..

21 6. For proposed projects on public lands or proposed projects providing access to the Columbia River or its
 22 tributaries: Compliance with the guidelines ((for protection of tribal treaty rights in Part IV, Chapter 3, Indian-
 23 Tribal Treaty Rights and Consultation in the Management Plan.))

24 7. For proposed projects which include interpretation of natural or cultural resources: A demonstration that
 25 the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and
 26 necessary resource protection measures shall be employed.

27 8. Applications for public recreation development in Recreation Intensity Class 3 shall demonstrate how the
 28 proposed recreation development will be equitable and accessible (regardless of income level, ethnicity,
 29 gender, ability, or age). Applications for public recreation development in RIC 1 and 2 shall meet this standard
 30 to the maximum extent practicable.

31 9. Applications shall demonstrate compliance with the social, physical and managerial setting characteristics
 32 in the applicable Recreation Intensity Class description.

33 E. Facility Design Guidelines for All Recreation Projects.

34 1. Recreation facilities which are not resource-based in nature may be included at sites providing resource-
 35 based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no
 36 more than one third (1/3) of the total land area dedicated to recreation uses ((and/))or facilities. Required
 37 landscaped buffers may be included in calculations of total land area dedicated to recreation uses ((and/))or
 38 facilities.

39 2. The facility design guidelines contained herein are intended to apply to individual recreation facilities.
 40 ((For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational
 41 developments or improvements located in relatively close proximity to one another.))To be considered a
 42 separate facility from other developments or improvements within the same recreation intensity class,
 43 recreation developments or improvements must be separated by at least one-quarter (1/4) mile of undeveloped
 44 land (excluding trails, pathways, or access roads).

1 ((3. Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural-
 2 contours as much as possible, both to minimize ground disturbing grading activities and utilize topography to-
 3 screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set-
 4 back sufficiently from bluffs so as to be visually subordinate as seen from key viewing areas.))

5 3((4)). Existing vegetation, particularly mature trees, shall be maintained to the maximum extent
 6 practicable. These trees may be((, and)) utilized to((screen parking areas and campsites from key viewing areas
 7 and)) satisfy requirements for perimeter and interior landscaped buffers.

8 4((5)). Parking areas providing over fifty (50) spaces shall be divided into discrete “islands” separated by
 9 unpaved, landscaped buffer areas.

10 5((6)). Lineal frontage of parking areas and campsite loops to scenic travel corridors shall be minimized to
 11 the greatest extent practicable.

12 6((7)). Ingress and((4))egress points shall be consolidated to the maximum extent practicable, providing for
 13 adequate emergency access pursuant to applicable fire and safety codes.

14 7((8)). Signs((age)) shall be limited to ((that))those necessary to provide relevant recreation or facility

15 information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

16 ((9. Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from
 17 projecting off site or being highly visible from key viewing areas.))

18 8((10)). Innovative designs and materials which reduce visual impacts (such as “turf blocks” instead of
 19 conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking
 20 spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that
 21 potential visual impacts have been substantially reduced by use of such designs and materials, the responsible
 22 official or examiner may allow either reductions in required minimum interior or perimeter landscape buffers
 23 up to fifty percent (50%) of what would otherwise be required, or additional parking spaces not to exceed ten
 24 percent (10%) of what would otherwise be permitted.

25 9((11)). A majority of trees, shrubs and other plants in landscaped areas shall be species native ((or

26 naturalized)) to the landscape setting in which they occur. ((()The landscape setting descriptions and design

27 guidelines are found in 40.240.800(C) ((specify lists of appropriate species)). Project applicants that are

28 required to use new landscaping are encouraged to place trees, shrubs and other plants in a manner

29 approximating their natural condition.

30 ((12. All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in
 31 the structures blending with and not noticeably contrasting with their setting.

32 13. Landscape buffers around the perimeter of parking areas accommodating more than ten (10) vehicles
 33 shall be provided. Minimum required widths are five (5) feet for twenty (20) vehicles or less, twenty (20) feet
 34 for fifty (50) vehicles or less, thirty (30) feet for one hundred (100) vehicles or less, and forty (40) feet for two
 35 hundred fifty (250) vehicles or less.))

36 104. For any parking area with over 50 spaces, ((4))interior landscaped buffers breaking up continuous areas
 37 of parking into discrete “islands” shall be provided((for any parking areas over fifty (50) spaces in size)). The

38 minimum width of interior landscaped buffers between each parking lot of fifty (50) spaces or less shall be
 39 twenty (20) feet.

40 ((15. Within required perimeter and interior landscaped buffer areas, a minimum of one (1) tree of at least
 41 six (6) feet in height shall be planted for every ten (10) linear feet as averaged for the entire perimeter width. A
 42 minimum of twenty five percent (25%) of planted species in perimeter buffers shall be coniferous to provide
 43 screening during the winter. Project applicants are encouraged to place such trees in random groupings
 44 approximating natural conditions. In addition to the required trees, landscaping shall include appropriate
 45 shrubs, groundcover and other plant materials.

1 16. Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced
 2 by as much as fifty percent (50%), at the discretion of the responsible official, if existing vegetation stands
 3 and/or existing topography are utilized such that the development is not visible from any key viewing area.)

4 11((7)). Grading or soil compaction within the drip line of existing mature trees shall be avoided to the
 5 maximum extent practicable, to reduce risk of root damage and associated tree mortality.

6 ((18. All parking areas and campsites shall be set back from scenic travel corridors, and the Columbia River
 7 and its major tributaries at least one hundred (100) feet. Required perimeter landscaped buffers may be
 8 included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water
 9 mark. Setbacks from scenic travel corridors shall be measured from the edge of road pavements.))

10 12((9)). Project applicants shall utilize measures and equipment necessary for the proper maintenance and
 11 survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible
 12 for such maintenance and survival.

13 13((20)). All parking areas shall be set back from property boundaries by at least fifty (50) feet. All
 14 campsites and associated facilities shall be set back from property boundaries by at least one hundred (100)
 15 feet.

16 (Amended: Ord. 2006-05-04)

18 **Section 62. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.900, and most recently
 19 amended by Sec. 2 (Exh. A) of Ord. 2006-05-04 are each hereby amended as follows:

21 **40.240.900 Special Management Area Recreation Resource Review Criteria**

22 A. The following shall apply to all new recreation developments and land uses in the Special Management Area:

23 1. New development((s)) and land uses shall not displace existing recreational use;

24 2. Only natural resource-based recreation shall be allowed;

25 3. Recreation resources shall be protected from adverse effects by evaluating new developments and land
 26 uses as proposed in the site plan. An analysis of both on- and off-site cumulative effects shall be required;

27 4. New pedestrian or equestrian trails shall not have motorized uses, except for emergency services;

28 5. Mitigation measures shall be provided to preclude adverse effects on the recreation resource;

29 6. The ((f))Facility Design ((g))Guidelines in 40.240.890.E ((-contained in this section)) are intended to
 30 apply to individual recreation facilities. ((For the purposes of these guidelines, a recreation facility is
 31 considered a cluster or grouping of recreational developments or improvements located in relatively close
 32 proximity to one another. Recreation d))Development((s-)) or improvements ((to be considered)) within the
 33 same Recreation Intensity Class are considered as ((a)) separate facilities((y)) f((rom other developments or
 34 improvements within the same recreation intensity class must be)) if they are separated by at least one-quarter
 35 (1/4) mile of undeveloped land (excluding trails, pathways, or access roads); and

36 7. New development and reconstruction of scenic routes ((see Part III, Chapter I of the Management Plan)))
 37 shall include provisions for bicycle lanes.

38 B. SMA Recreation Intensity Class Guidelines.

39 Each Recreation Intensity Class includes a description of the desired social, physical and managerial setting for
 40 recreation development within each Recreation Intensity Class. Each Recreation Intensity Class also includes a
 41 list of allowable uses, subject to compliance with 40.240.890.E.

1 1. Recreation Intensity Class 1 – Very Low Intensity.~~((Emphasis is to provide opportunities for semi-~~
 2 ~~primitive recreation opportunities;))~~

3 a. Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities
 4 to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low
 5 throughout the designation. Perceived crowdedness is low to non-existent away from roads recreation
 6 sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads
 7 and recreation sites.

8 b. Physical and Managerial Setting: Predominately natural or natural appearing landscapes with rustic
 9 improvements characterize this designation. Nodes of developed recreation facilities may be allowed.
 10 Developed recreation site regulations and controls (signing, regulations or other regimentation) are
 11 noticeable but harmonize with the natural characteristics of the landscape setting. Away from developed
 12 recreation sites there is minimal or subtle control of users.

13 c. Trail development is simple and typically accommodate low use levels. Users are highly skilled with
 14 a high degree of orienteering skills.

15 ((a. Permitted uses are those in which people participate in outdoor activities to realize experiences-
 16 such as solitude, tension reduction, and nature appreciation.))

17 d((b)). ((The maximum site design capacity shall not exceed thirty five (35) people at one (1) time on-
 18 the site.)) The maximum design capacity for parking areas shall be ten (10) vehicles.

19 e((e)). The following uses may be permitted:

- 20 (1) Trails and trailheads;
- 21 (2) Parking areas;
- 22 (3) Dispersed campsites accessible only by a trail;
- 23 (4) Viewpoints and overlooks;
- 24 (5) Picnic areas;
- 25 (6) Signs;
- 26 (7) Interpretive exhibits and displays;
- 27 (8) Restrooms.

28 (9) Accommodations for mass transportation facilities should be considered where compatible with
 29 the social and physical settings.

30 2. Recreation Intensity Class 2 – Low Intensity.

31 a. Social Setting: RIC 2 ((Emphasis)) is ((to provide))characterized by ((semi primitive recreation))
 32 opportunities((.)) to experience relaxation.

33 ((b. Permitted uses are those that provide settings where people can participate in activities such as-
 34 physical fitness, and outdoor learning, ((relaxation, and escape))) and where there is a moderate
 35 probability to experience solitude. Visitor encounters are low to moderate on trails and away from
 36 ((noise and crowds)) developed recreation sites and roads, and usually moderate to high near (within 1
 37 mile) recreation sites and roads.

38 b. Physical and Managerial Setting: Predominately natural or natural appearing landscapes with rustic
 39 improvements characterize this designation. Nodes of highly developed recreation facilities may be

1 allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation)
2 harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites
3 there is minimal or subtle control of users.

4 Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for
5 user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and
6 are challenging and involve intermediate to advance skills

7 c. ((The maximum site design capacity shall not exceed seventy (70) people at one (1) time on the
8 site.)) The maximum design capacity shall be twenty-five (25) vehicles.

9 d. All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The
10 following uses may also be permitted:

11 (1) Campground for twenty (20) units or less, tent sites only ((with vehicle access));

12 (2) Boat anchorages designed for no more than ten (10) boats at one (1) time; and

13 (3) Swimming areas.

14 (4) Accommodations for mass transportation facilities should be considered where compatible with
15 the social and physical settings.

16 (Amended: Ord. 2006-05-04)

17

1
2 **Section 63. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.040, and most recently
3 amended by Sec. 3 of Ord. 2021-07-03 are each hereby amended as follows:
4

5 **40.510.020 Type II Process – Administrative Decisions**

6 A. Pre-Application Review.

7 1. The purposes of pre-application review are:

- 8 a. To acquaint county staff with a sufficient level of detail about the proposed development to enable
9 staff to advise the applicant accordingly;
- 10 b. To acquaint the applicant with the applicable requirements of this code and other law. However, the
11 conference is not intended to provide an exhaustive review of all the potential issues that a given
12 application could raise. The pre-application review does not prevent the county from applying all relevant
13 laws to the application; and
- 14 c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed
15 application and applicable law. Although members of the public can attend a pre-application conference, it
16 is not a public hearing, and there is no obligation to receive public testimony or evidence.

17 2. Pre-application review is required for applications, with the following exceptions:

- 18 a. The application is for one (1) of the following use classifications:

- 19 (1) Section 40.210.010, Forest and Agriculture districts;
20 (2) Section 40.520.020, Planning Director reviews and similar use determinations;
21 (3) Chapter 40.260, special uses (unless specified as a Type III review);
22 (4) Section 40.260.220, temporary permits;
23 (5) Section 40.530.010(F)(6), change in nonconforming use;
24 (6) Section 40.260.210, temporary dwelling permit;
25 (7) Section 40.520.060, post-decision reviews;
26 (8) Section 40.450.040, preliminary (stand-alone) wetland permit;
27 (9) SEPA review for projects that are not otherwise Type II reviews (e.g., grading);
28 (10) Section 40.500.010, interpretations;
29 (11) Section 40.550.020, administrative variances;
30 (12) Section 40.540.120(E)(3), minor plat alterations; or

31 b. The applicant applies for and is granted a pre-application waiver from the responsible official. The
32 form shall state that waiver of pre-application review increases the risk the application will be rejected or
33 processing will be delayed. Pre-application review generally should be waived by the responsible official
34 only if the application is relatively simple. The administrative decision regarding a pre-application waiver
35 can be appealed as a Type I administrative decision.

36 3. To initiate pre-application review, an applicant shall submit a completed form provided by the
37 responsible official for that purpose, the required fee, and all information required by the relevant section(s) of

1 this code. The applicant shall provide the required number of copies of all information as determined by the
2 responsible official.

3 4. Information not provided on the form shall be provided on the face of the preliminary plat, in an
4 environmental checklist or on other attachments. The responsible official may modify requirements for pre-
5 application materials and may conduct a pre-application review with less than all of the required information.
6 However, failure to provide all of the required information may prevent the responsible official from
7 identifying all applicable issues or providing the most effective pre-application review and will preclude
8 contingent vesting under Section 40.510.020(G). Review for completeness will not be conducted by staff at the
9 time of submittal and it is the responsibility of the applicant.

10 5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the
11 responsible official shall send written notice to the applicant and to other interested agencies and parties,
12 including the neighborhood association in whose area the property in question is situated. The notice shall state
13 the date, time and location of the pre-application conference, the purposes of pre-application review, and the
14 nature of the proposal.

15 6. The responsible official shall coordinate the involvement of agency staff responsible for planning,
16 development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review
17 process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the
18 purposes of pre-application review.

19 7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice is mailed
20 but not more than twenty-eight (28) calendar days after the responsible official accepts the application for pre-
21 application review. The responsible official shall reschedule the conference and give new notice if the applicant
22 or applicant's representative cannot or does not attend the conference when scheduled.

23 8. Within seven (7) calendar days after the date of the pre-application conference, the responsible official
24 shall send to the applicant and to other parties who attend the conference or who otherwise request it in writing,
25 a written summary of the pre-application review. The written summary generally shall do the following to the
26 extent possible given the information provided by the applicant:

- 27 a. Summarize the proposed application(s);
- 28 b. Identify the relevant approval criteria and development standards in this code or other applicable law
29 and exceptions, adjustments or other variations from applicable criteria or standards that may be
30 necessary;
- 31 c. Evaluate information the applicant offered to comply with the relevant criteria and standards, and
32 identify specific additional information that is needed to respond to the relevant criteria and standards or is
33 recommended to respond to other issues;
- 34 d. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;
- 35 e. Identify information relevant to the application that may be in the possession of the county or other
36 agencies of which the county is aware, such as:
 - 37 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property subject
38 to the application;
 - 39 (2) Physical development limitations, such as steep or unstable slopes, wetlands, wellhead
40 protection areas, water bodies, or special flood hazard areas, that exist on and in the vicinity of the
41 property subject to the application;
 - 42 (3) Those public facilities that will serve the property subject to the application, including fire
43 services, roads, storm drainage, and, if residential, parks and schools, and relevant service
44 considerations, such as minimum access and fire flow requirements or other minimum service levels
45 and impact fees; and

(4) Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.

f. Where applicable, indicate whether the pre-application submittal was complete so as to trigger contingent vesting under Section 40.510.020(G).

9. An applicant may submit a written request for a second pre-application conference within one (1) calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.

10. A new request for or waiver of a pre-application review for a given development shall be filed unless the applicant submits a fully complete application that the responsible official finds is substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

(Amended: Ord. 2005-04-12; Ord. 2006-05-01; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2009-07-01; Ord. 2010-08-06; Ord. 2017-07-04; Ord. 2020-03-01)

B. Review for Counter Complete Status.

1. Before accepting an application for review for fully complete status, and unless otherwise expressly provided by code, the responsible official shall determine the application is counter complete.

2. The responsible official shall decide whether an application is counter complete when the application is accepted, typically "over the counter."

3. An application is counter complete if the responsible official finds that the application purports and appears to include the information required by Section 40.510.020(C); provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. Required information which has been waived by the responsible official shall be replaced by a determination from the responsible official granting the waiver.

4. If the responsible official decides the application is counter complete, then the application shall be accepted for review for fully complete status.

5. If the responsible official decides the application is not counter complete, then the responsible official shall immediately reject and return the application and identify what is needed to make the application counter complete.

(Amended: Ord. 2017-07-04)

C. Review for Fully Complete Status.

1. Before accepting an application for processing, the responsible official shall determine that the application is fully complete.

2. The responsible official shall decide whether an application is fully complete subject to the following:

a. Within twenty-one (21) calendar days after the responsible official determines the application is counter complete; or

b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the application has been returned to the applicant as being incomplete.

1 3. An application is fully complete if it includes all the required materials specified in the submittal
2 requirements for the specific development review application being applied for and additional materials
3 specified in the pre-application conference. If submittal requirements are not specified in the applicable code
4 sections the application is fully complete if it includes the following:

- 5 a. A signed statement from the applicant certifying that the application has been made with the consent
6 of the lawful property owner(s) and that all information submitted with the application is complete and
7 correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.
8 Submittal of the application gives consent to the county to enter the property(ies) subject to the
9 application;
- 10 b. The signature of the property owner or the property owner's authorized representative;
- 11 c. A legal description supplied by the Clark County Survey Records Division, a title company,
12 surveyor licensed in the state of Washington, or other party approved by the responsible official, and
13 current County Assessor map(s) showing the property(ies) subject to the application;
- 14 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject site as
15 required in Section 40.510.020(E);
- 16 e. Unless the responsible official has waived the pre-application conference or a pre-application
17 conference was not required pursuant to Section 40.510.020(A)(2), a copy of the pre-application
18 conference summary, and information required by the pre-application conference summary, unless not
19 timely prepared as required by Section 40.510.020(A)(8);
- 20 f. The applicable fee(s) adopted by Council for the application(s) in question;
- 21 g. An application shall include all of the information listed as application requirements in the relevant
22 sections of this code.
- 23 (1) The responsible official may waive application requirements that are clearly not necessary to
24 show an application complies with relevant criteria and standards and may modify application
25 requirements based on the nature of the proposed application, development, site or other factors.
26 Requests for waivers shall be reviewed as a Type I process before applications are submitted for
27 counter complete review or the application must contain all the required information;
- 28 (2) The decision about the fully complete status of an application, including any required
29 engineering, traffic or other studies, shall be based on the criteria for completeness as established by
30 the responsible official and shall not be based on differences of opinion as to quality or accuracy;
- 31 h. Any applicable SEPA document, typewritten or in ink and signed.

32 4. If the responsible official decides an application is not fully complete, then, within the time provided in
33 Section 40.510.020(C)(2), the responsible official shall send the applicant a written statement indicating that
34 the application is incomplete based on a lack of information and listing what is required to make the application
35 fully complete.

- 36 a. The statement shall specify a date by which the required missing information must be provided to
37 restart the fully complete review process pursuant to Section 40.510.020(C)(2)(b). The statement shall
38 state that an applicant can apply to extend the deadline for filing the required information, and explain
39 how to do so.
- 40 b. The statement also may include recommendations for additional information that, although not
41 necessary to make the application fully complete, is recommended to address other issues that are or may
42 be relevant to the review.

43 5. If the required information is not submitted by the date specified and the responsible official has not
44 extended that date, within seven (7) calendar days after that date the responsible official shall take the action in

1 Section 40.510.020(C)(5)(a), (C)(5)(b) or (C)(5)(c). If the required information is submitted by the date
2 specified, then within fourteen (14) calendar days the responsible official shall decide whether the application
3 is fully complete and, if not, the responsible official shall:

- 4 a. Reject and return the application and scheduled fees and send to the applicant a written statement
5 which lists the remaining additional information needed to make the application fully complete; or
| 6 b. Issue an administrative decision denying the application, based on a lack of information; provided,
7 the responsible official may allow the applicant to restart the fully complete review process a second time
8 by providing the required missing information by a date specified by the responsible official, in which
9 case the responsible official shall retain the application and fee pending expiration of that date or a fully
10 complete review of the application as amended by that date.

11 6. If the responsible official decides an application is fully complete, then the responsible official shall,
12 within fourteen (14) calendar days of making this determination:

- 13 a. Forward the application to the county staff responsible for processing it;
14 b. Send a written notice of receipt of a complete application to the applicant acknowledging
15 acceptance, listing the name and telephone number of a contact person for the responsible official, and
16 describing the expected review schedule;
17 c. Prepare a public notice in accordance with Section 40.510.020(E).

18 7. An application shall be determined fully complete if a written determination has not been sent to the
19 applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall
20 be determined fully complete if a written determination has not been sent to the applicant within fourteen (14)
21 calendar days of the date that the necessary additional information is submitted.

22 8. A fully complete determination shall not preclude the county from requesting additional information,
23 studies or changes to submitted information or plans if new information is required or substantial changes to the
24 proposed action occur.

25 (Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

26 D. Procedure.

27 1. Within fourteen (14) calendar days after the date an application is accepted as fully complete, the
28 responsible official for the application shall issue a public notice of the application pending review consistent
29 with the requirements of Section 40.510.020(E).

30 2. The responsible official shall send to the applicant a copy of comments timely received in response to the
31 notice together with a statement that the applicant may respond to the comments within fourteen (14) calendar
32 days from the date the comments are sent. The responsible official shall consider the comments timely received
33 in response to the notice and timely responses by the applicant to those comments. The responsible official may
34 consider comments and responses received after the deadline for filing.

| 35 3. An administrative decision shall be made within the timelines specified by Section 40.510.020(F), and
36 shall include:

- 37 a. A statement of the applicable criteria and standards in this code and other applicable law;
38 b. A statement of the facts that the responsible official found showed the application does or does not
39 comply with each applicable approval criterion and assurance of compliance with applicable standards;
40 c. The reasons for a conclusion to approve or deny; and

1 d. The administrative decision to deny or approve the application and, if approved, conditions of
 2 approval necessary to ensure the proposed development will comply with applicable law.

3 4. Within seven (7) calendar days of the administrative decision, the responsible official shall send a notice
 4 of administrative decision to the applicant and applicant's representative, the neighborhood association in
 5 whose area the property in question is situated, and all parties of record regarding the application. For
applications on all lands within the Columbia River Gorge National Scenic Area, the responsible official shall
also send a notice of administrative decision to the parties listed in 40.240.050.G.4 for applications reviewed
under the standard review process or 40.240.060.D.6 for applications reviewed under the expedited review
process. The notice shall include the following information:

10 a. A statement that the administrative decision and SEPA determination ((are final, but)) may be
 11 appealed as provided in Section 40.510.020(H) to the hearing examiner within fourteen (14) calendar days
 12 after the notice of administrative decision. The appeal closing date shall be listed in boldface type. The
 13 statement shall describe how a party may appeal the administrative decision or SEPA determination or
 14 both, including applicable fees and the elements of an appeal statement; and

15 b. A statement that the complete case file, including findings, conclusions and conditions of approval,
 16 if any, is available for review. The notice shall list the place, days and times where the case file is
 17 available and the name and telephone number of the county representative to contact about reviewing the
 18 case file.

19 5. Notice of Agricultural, Forest or Mineral Resource Activities.

20 a. All plats, building permits or development approvals under this title issued for residential
 21 development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-
 22 wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use
 23 pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible
 24 official. Such notice shall include the following disclosure:

25 The subject property is within or near designated agricultural land, forest land or mineral resource land (as
 26 applicable) on which a variety of commercial activities may occur that are not compatible with residential
 27 development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are
 28 not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any
 29 twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of
 30 chemical fertilizers, soil amendments, herbicides and pesticides.

31 b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants
 32 to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with
 33 the County Auditor.

34 (Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

35 E. Public Notice.

36 1. The notice of the application shall include the following information, to the extent known:

37 a. The project name, the case file number(s), date of application, the date the application was
 38 determined fully complete, and the date the notice is sent;

39 b. A description of the proposed project and a list of project permits included with the application;

40 c. A statement of the public comment period, that the public has the right to comment on the
 41 application, receive notice of and participate in any hearings, request a copy of the administrative decision
 42 once made, and any appeal rights. A statement shall indicate that written comments received by the county
 43 within fifteen (15) calendar days from the date of the notice will be considered;

44 d. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);

- 1 e. A statement of the preliminary SEPA determination, if one has been made;
- 2 f. A list of applicable code sections;
- 3 g. The name of the applicant or applicant's representative and the name, address and telephone number
4 of a contact person for the applicant, if any;
- 5 h. A description of the site, including current zoning and nearest road intersections, reasonably
6 sufficient to inform the reader of its location and zoning;
- 7 i. A map showing the subject property in relation to other properties or a reduced copy of the site plan;
- 8 j. The date, place and times where information about the application may be examined and the name
9 and telephone number of the county representative to contact about the application; and
- 10 k. Any additional information determined appropriate by the county.

11 1. Additional information as specified in Section 40.240.050.E. and 40.240.060.D for applications on
12 all lands within the Columbia River Gorge National Scenic Area.

13 2. Distribution.

- 14 a. The responsible official shall send a copy of the notice to:
 - 15 (1) The applicant and the applicant's representative;
 - 16 (2) The neighborhood association in whose area the property in question is situated, based on the
17 list of neighborhood associations kept by the responsible official and known interest groups;
 - 18 (3) Owners of property within a radius of three hundred (300) feet of the property that is the subject
19 of the application if the subject property is inside the urban growth boundary or to owners of property
20 within a radius of five hundred (500) feet of the property if the subject property is outside the urban
21 growth boundary;
 - 22 (a) The records of the County Assessor shall be used for determining the property owner of
23 record. The failure of a property owner to receive notice shall not affect the administrative
24 decision if the notice was sent. A sworn certificate of mailing executed by the person who did
25 the mailing shall be evidence that notice was mailed to parties listed or referenced in the
26 certificate, and
 - 27 (b) If the applicant owns property adjoining the property that is the subject of the application,
28 then notice shall be mailed to owners of property within a three hundred (300) or five hundred
29 (500) foot radius, as provided in this subdivision, of the edge of the property owned by the
30 applicant adjoining the property that is the subject of the application;
 - 31 (4) Agencies with jurisdiction; and
 - 32 (5) To other people the responsible official believes may be affected by the proposed action or who
33 request such notice in writing.

34 (6) Other parties as outlined in 40.240.050.E and 40.240.060.D for applications on all lands within the
35 Columbia River Gorge National Scenic Area.

36 (Amended: Ord. 2007-06-05)

37 F. Administrative Decision Timelines.

1 Not more than seventy-eight (78) calendar days after the date an application is determined fully complete, the
2 responsible official shall issue a written administrative decision regarding the application(s); provided:

3 1. If a determination of significance (DS) is issued, then the responsible official shall issue an administrative
4 decision not sooner than seven (7) calendar days after a final environmental impact statement is issued.

5 2. An applicant may request in writing to extend the time in which the responsible official shall issue a
6 administrative decision. If the responsible official grants such a request, the responsible official may consider
7 new evidence the applicant introduces with or subsequent to the request.

8 3. In determining the number of days that have elapsed after the county has notified the applicant that the
9 application is fully complete, the following periods shall be excluded:

10 a. Any period during which the applicant has been requested by the county to correct plans, perform
11 required studies, or provide additional required information. The responsible official shall specify a time
12 period based on the complexity of the required information in which the required information must be
13 submitted. The period shall be calculated from the date the county notifies the applicant of the need for
14 additional information until the earlier of the date the county determines whether the additional
15 information satisfies the request for information or fourteen (14) calendar days after the date the
16 information has been provided to the county.

17 b. If the county determines that the information submitted by the applicant under Section
18 40.510.020(F)(3)(a) is insufficient, it shall notify the applicant of the deficiencies and the procedures
19 under Section 40.510.020(F)(3)(a) shall apply as if a new request for studies had been made.

20 c. Any period of time during which an environmental impact statement is being prepared; provided,
21 that the maximum time allowed to prepare an environmental impact statement shall be one (1) year from
22 the issuance of the determination of significance unless the responsible official and applicant have
23 otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then
24 the application shall become null and void after the one (1) year period unless the responsible official
25 determines that delay in completion is due to factors beyond the control of the applicant.

26 d. Any period of time as outlined in 40.240.180.D for applications within the Columbia River Gorge
27 National Scenic Area.

28 G. Vesting.

29 1. Type II applications shall be considered under the development regulations in effect at the time a fully
30 complete application for preliminary approval is filed.

31 2. Contingent Vesting. An application which is subject to pre-application review shall earlier contingently
32 vest on the date a fully complete pre-application is submitted. This vesting shall become final if a fully
33 complete application for substantially the same proposal is submitted within one hundred eighty (180) calendar
34 days of the date the responsible official issues its written summary of pre-application review subject to the
35 limitations of Section 40.510.020(A)(4). Requests to waive contingent vesting rights by the applicant shall be
36 approved, subject to the request being submitted in writing and submitted as part of the full application
37 package.

38 3. Special rules apply to certain nonconforming uses under Section 40.530.010.

39 4. For concurrency approval requirements, see Section 40.350.020.

40 (Amended: Ord. 2007-06-05)

41 H. Appeals.

1 1. Applicability. An ((final)) administrative decision may be appealed only by a party of record. ((Final))
 2 Administrative decisions may be appealed if, within fourteen (14) calendar days after written notice of the
 3 administrative decision is sent, a written appeal is filed with the responsible official.

- 4 2. Submittal Requirements. The appeal shall contain the following information:
- 5 a. The case number designated by the county and the name of the applicant;
- 6 b. The name of each petitioner, the signature of each petitioner or his or her duly authorized
 7 representative, and a statement showing that each petitioner is entitled to file the appeal under Section
 8 40.510.020(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1)
 9 party as the contact representative for all contact with the responsible official. All contact with the
 10 responsible official regarding the petition, including notice, shall be with this contact representative;
- 11 c. The specific aspect(s) of the administrative decision and/or SEPA issue being appealed, the reasons
 12 why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error; and
- 13 d. The appeal fee adopted by Council; provided, the scheduled fee shall be refunded if the applicant
 14 files with the responsible official at least fifteen (15) calendar days before the appeal hearing a written
 15 statement withdrawing the appeal.

16 3. Appeal Procedures.

- 17 a. The hearing examiner shall review ((hear appeals)) of administrative decisions ((in a)) de novo ((-
 18 hearing)). The record for the appeal shall not be limited to the record of the administrative decision; any
 19 person may submit new information and argument for the examiner's consideration on appeal. Notice of
 20 an appeal hearing shall be sent to parties of record, but shall not be posted or published. A staff report
 21 shall be prepared, a hearing shall be conducted, and an examiner's decision shall be made and noticed.
((The decision can be appealed under a Type III process.))
- 23 b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have the
 24 burden of proving by substantial evidence compliance with applicable approval standards. Where evidence
 25 is conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.

26 (Amended: Ord. 2005-10-04; Ord. 2007-11-13; Ord. 2019-05-07; Ord. 2021-07-03)

27
 28 **Section 64. Amendatory.** Sec. 1 (Exh. A) of Ord. 2003-11-01, codified as CCC 40.240.040, and most recently
 29 amended by Sec. 3 of Ord. 2021-07-03 are each hereby amended as follows:

31 **40.510.030 Type III Process – Quasi-Judicial Decisions**

32 A. Pre-Application Review.

- 33 1. The purposes of pre-application review are:
- 34 a. To acquaint county staff with a sufficient level of detail about the proposed development to enable
 35 staff to advise the applicant accordingly;
- 36 b. To acquaint the applicant with the applicable requirements of this code and other law. However, the
 37 conference is not intended to provide an exhaustive review of all the potential issues that a given
 38 application could raise. The pre-application review does not prevent the county from applying all relevant
 39 laws to the application; and

1 c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed
2 application and applicable law. Although members of the public can attend a pre-application conference, it
3 is not a public hearing, and there is no obligation to receive public testimony or evidence.

4 2. Pre-application review is required for applications, with the following exceptions:

5 a. The application is for a post-decision review, as described in Section 40.520.060; or

6 b. The applicant applies for and is granted a pre-application waiver from the responsible official. The
7 form shall state that waiver of pre-application review increases the risk the application will be rejected or
8 processing will be delayed. Pre-application review generally should be waived by the responsible official
9 only if the application is relatively simple. The administrative decision to waive a pre-application can be
10 appealed as a Type I administrative decision.

11 3. To initiate pre-application review, an applicant shall submit a completed form provided by the
12 responsible official for that purpose, the required fee, and all information required by the relevant section(s) of
13 this code. The applicant shall provide the required number of copies of all information as determined by the
14 responsible official.

15 4. Information not provided on the form shall be provided on the face of the preliminary plat, in an
16 environmental checklist or on other attachments. The responsible official may modify requirements for pre-
17 application materials and may conduct a pre-application review with less than all of the required information.
18 However, failure to provide all of the required information may prevent the responsible official from
19 identifying all applicable issues or providing the most effective pre-application review and will preclude
20 contingent vesting under Section 40.510.030(G). Review for completeness will not be conducted by staff at the
21 time of submittal and it is the responsibility of the applicant.

22 5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the
23 responsible official shall send written notice to the applicant and to other interested agencies and parties,
24 including the neighborhood association in whose area the property in question is situated. The notice shall state
25 the date, time and location of the pre-application conference, the purposes of pre-application review, and the
26 nature of the conference.

27 6. The responsible official shall coordinate the involvement of agency staff responsible for planning,
28 development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review
29 process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the
30 purposes of pre-application review.

31 7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice is sent
32 but not more than twenty-eight (28) calendar days after the responsible official accepts the application for pre-
33 application review. The responsible official shall reschedule the conference and give new notice if the applicant
34 or applicant's representative cannot or does not attend the conference when scheduled.

35 8. Within seven (7) calendar days after the date of the pre-application conference, the responsible official
36 shall send to the applicant and to other parties who attend the pre-application conference or who otherwise
37 request it in writing, a written summary of the pre-application review. The written summary generally shall do
38 the following to the extent possible given the information provided by the applicant:

39 a. Summarize the proposed application(s);

40 b. Identify the relevant approval criteria and development standards in this code or other applicable law
41 and exceptions, adjustments or other variations from applicable criteria or standards that may be
42 necessary;

43 c. Evaluate information the applicant offered to comply with the relevant criteria and standards, and
44 identify specific additional information that is needed to respond to the relevant criteria and standards or is
45 recommended to respond to other issues;

- 1 d. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;
- 2 e. Identify information relevant to the application that may be in the possession of the county or other
3 agencies of which the county is aware, such as:
- 4 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property subject
5 to the application;
- 6 (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head
7 protection areas, water bodies, or special flood hazard areas, that exist on and in the vicinity of the
8 property subject to the application;
- 9 (3) Those public facilities that will serve the property subject to the application, including fire
10 services, roads, storm drainage, and, if residential, parks and schools, and relevant service
11 considerations, such as minimum access and fire flow requirements or other minimum service levels
12 and impact fees; and
- 13 (4) Other applications that have been approved or are being considered for land in the vicinity of
14 the property subject to the proposed application that may affect or be affected by the proposed
15 application.
- 16 f. Where applicable, indicate whether the pre-application submittal was complete so as to trigger
17 contingent vesting under Section 40.510.030(G).
- 18 9. An applicant may submit a written request for a second pre-application conference within one (1)
19 calendar year after an initial pre-application conference. There is no additional fee for a second conference if
20 the proposed development is substantially similar to the one reviewed in the first pre-application conference or
21 if it reflects changes based on information received at the first pre-application conference. A request for a
22 second pre-application conference shall be subject to the same procedure as the request for the initial pre-
23 application conference.
- 24 10. A request for or waiver of a pre-application review for a given development shall be filed unless the
25 applicant submits a fully complete application that the responsible official finds is substantially similar to the
26 subject of a pre-application review within one (1) calendar year after the last pre-application conference or after
27 approval of waiver of pre-application review.
- 28 (Amended: Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2017-07-04)
- 29 B. Review for Counter Complete Status.
- 30 1. Before accepting an application for review for fully complete status, and unless otherwise expressly
31 provided by code, the responsible official shall determine the application is counter complete.
- 32 2. The responsible official shall decide whether an application is counter complete when the application is
33 accepted, typically "over the counter."
- 34 3. An application is counter complete if the responsible official finds that the application purports and
35 appears to include the information required by Section 40.510.030(C)(3); provided, no effort shall be made to
36 evaluate the substantive adequacy of the information in the application in the counter complete review process.
37 Required information which has been waived by the responsible official shall be replaced by a determination
38 from the responsible official granting the waiver.
- 39 4. If the responsible official decides the application is counter complete, then the application shall be
40 accepted for review for fully complete status.
- 41 5. If the responsible official decides the application is not counter complete, then the responsible official
42 shall immediately reject and return the application and identify what is needed to make the application counter
43 complete.

1 (Amended: Ord. 2017-07-04)

2 C. Review for Fully Complete Status.

3 1. Before accepting an application for processing, the responsible official shall determine that the
4 application is fully complete.

5 2. The responsible official shall decide whether an application is fully complete subject to the following:

6 a. Within twenty-one (21) calendar days after the responsible official determines the application is
7 counter complete; or

8 b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the
9 application has been returned to the applicant as being incomplete.

10 3. An application is fully complete if it includes all the required materials specified in the submittal
11 requirements for the specific development review application being applied for and additional materials
12 specified in the pre-application conference. If submittal requirements are not specified in the applicable code
13 sections the application is fully complete if it includes the following:

14 a. A signed statement from the applicant certifying that the application has been made with the consent
15 of the lawful property owner(s) and that all information submitted with the application is complete and
16 correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.
17 Submittal of the application gives consent to the county to enter the property(ies) subject to the
18 application;

19 b. The signature of the property owner or the property owner's authorized representative;

20 c. A written narrative that addresses the following:

21 (1) How the application meets or exceeds each of the applicable approval criteria and standards;
22 and

23 (2) How the issues identified in the pre-application conference have been addressed, and generally,
24 how services will be provided to the site;

25 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject site as
26 required in Sections 40.510.030(E);

27 e. A legal description supplied by the Clark County Survey Records Division, a title company,
28 surveyor licensed in the state of Washington, or other party approved by the responsible official, and
29 current County Assessor map(s) showing the property(ies) subject to the application;

30 f. Unless the responsible official has waived the pre-application conference, a copy of the pre-
31 application conference summary, and information required by the pre-application conference summary,
32 unless not timely prepared as required by Section 40.510.030(A)(8);

33 g. A preliminary site plan or plat that shows existing conditions and proposed improvements;

34 h. The applicable fee(s) adopted by Council for the application(s) in question;

35 i. Any applicable SEPA document, typewritten or in ink and signed.

36 4. An application shall include all of the information listed as application requirements in the relevant
37 sections of this code.

38 a. The responsible official may waive application requirements that are clearly not necessary to show
39 an application complies with relevant criteria and standards and may modify application requirements

1 based on the nature of the proposed application, development, site or other factors. Requests for waivers
2 shall be reviewed as a Type I process before applications are submitted for counter complete review or the
3 application must contain all the required information;

4 b. The decision about the fully complete status of an application, including any required engineering,
5 traffic or other studies, shall be based on the criteria for completeness and methodology set forth in this
6 code or in implementing measures timely adopted by the responsible official and shall not be based on
7 differences of opinion as to quality or accuracy.

8 5. If the responsible official decides an application is not fully complete, then, within the time provided in
9 Section 40.510.030(C)(2), the responsible official shall send the applicant a written statement indicating that
10 the application is incomplete based on a lack of information and listing what is required to make the application
11 fully complete.

12 a. The statement shall specify a date by which the required missing information must be provided to
13 restart the fully complete review process pursuant to Section 40.510.030(C)(2)(b). The statement shall
14 state that an applicant can apply to extend the deadline for filing the required information, and explain
15 how to do so.

16 b. The statement also may include recommendations for additional information that, although not
17 necessary to make the application fully complete, is recommended to address other issues that are or may
18 be relevant to the review.

19 6. If the required information is not submitted by the date specified and the responsible official has not
20 extended that date, within seven (7) calendar days after that date the responsible official shall take the action in
21 Section 40.510.030(C)(6)(a) or (C)(6)(b). If the required information is submitted by the date specified, then
22 within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete
23 and, if not, the responsible official shall:

24 a. Reject and return the application and scheduled fees and send to the applicant a written statement
25 which lists the remaining additional information needed to make the application fully complete; or

26 b. Issue an administrative decision denying the application, based on a lack of information; provided,
27 the responsible official may allow the applicant to restart the fully complete review process a second time
28 by providing the required missing information by a date specified by the responsible official, in which
29 case the responsible official shall retain the application and fee pending expiration of that date or a fully
30 complete review of the application as amended by that date.

31 7. If the responsible official decides an application is fully complete, then the responsible official shall,
32 within fourteen (14) calendar days of making this determination:

33 a. Forward the application to the county staff responsible for processing it, and schedule public
34 hearing;

35 b. Send a written notice of receipt of a complete application to the applicant acknowledging
36 acceptance, listing the name and telephone number of a contact person at the review authority, and
37 describing the expected review schedule, including the date of a hearing for a Type III process;

38 c. Prepare a public notice in accordance with Section 40.510.030(E).

39 8. An application shall be determined fully complete if a written determination has not been sent to the
40 applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall
41 be determined fully complete if a written determination has not been sent to the applicant within fourteen (14)
42 calendar days of the date that the necessary additional information is submitted.

43 9. A fully complete determination shall not preclude the county from requesting additional information,
44 studies or changes to submitted information or plans if new information is required or substantial changes to the
45 proposed action occur.

1 (Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

2 D. Procedure.

3 1. At least one (1) public hearing before the hearing examiner is required. The public hearing should be held
4 within seventy-eight (78) calendar days after the date the responsible official issues the determination that the
5 application is fully complete.

6 2. At least fifteen (15) calendar days before the date of a hearing, the responsible official shall issue a public
7 notice of the hearing consistent with the requirements in Section 40.510.030(E).

8 3. At least fifteen (15) calendar days before the date of the hearing for an application(s), the responsible
9 official shall issue a written staff report and recommendation regarding the application(s), shall make available
10 to the public a copy of the staff report for review and inspection, and shall send a copy of the staff report and
11 recommendation without charge to the hearing examiner and to the applicant and applicant's representative.
12 The responsible official shall send or provide a copy of the staff report at reasonable charge to other parties
13 who request it.

14 4. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing
15 examiner, except to the extent waived by the hearing examiner. A public hearing shall be recorded
16 electronically.

17 a. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:

18 (1) State that testimony will be received only if it is relevant to the applicable approval criteria and
19 development standards and is not unduly repetitious;

20 (2) Identify the applicable approval criteria and development standards;

21 (3) State that the hearing examiner will consider any party's request that the hearing be continued
22 or that the record be kept open for a period of time and may grant or deny that request;

23 (4) State that the hearing examiner must be impartial and whether the hearing examiner has had any
24 ex parte contact or has any personal or business interest in the application. The hearing examiner shall
25 afford parties an opportunity to challenge the impartiality of the authority;

26 (5) State whether the hearing examiner has visited the site;

27 (6) State that persons who want to receive notice of the examiner's decision may sign a list for that
28 purpose at the hearing and where that list is kept; and

29 (7) Summarize the conduct of the hearing.

30 b. At the conclusion of the hearing on each application, the hearing examiner shall announce one (1) of
31 the following actions:

32 (1) That the hearing is continued. If the hearing is continued to a place, date and time certain, then
33 additional notice of the continued hearing is not required to be mailed, published or posted. If the
34 hearing is not continued to a place, date and time certain, then notice of the continued hearing shall be
35 given as though it was the initial hearing. The hearing examiner shall adopt guidelines for reviewing
36 requests for continuances;

37 (2) That the public record is held open to a date and time certain. The hearing examiner shall state
38 where additional written evidence and testimony can be sent, and shall announce any limits on the
39 nature of the evidence that will be received after the hearing. The hearing examiner may adopt
40 guidelines for reviewing requests to hold open the record;

(3) That the application(s) is/are taken under advisement, and an examiner's decision((final order)) will be issued as provided in Section 40.510.030(D)(6); or

(4) That the application(s) is/are denied, approved or approved with conditions, together with a brief summary of the basis for the examiner's decision, and that an examiner's decision ((final order)) will be issued as provided in Section 40.510.030(D)(5).

5. Unless the applicant agrees to allow more time, within fourteen (14) calendar days after the date the record closes, the examiner's decision shall be issued ((hearing examiner shall issue a written decision regarding the application(s))); provided, the examiner's decision ((hearing examiner)) shall not be issued ((a written decision regarding the application(s))) until at least fifteen (15) calendar days after the threshold determination under Chapter 40.570 is made. The examiner's decision shall include:

- a. A statement of the applicable criteria and standards in this code and other applicable law;
 - b. A statement of the facts that the hearing examiner found showed the application does or does not comply with each applicable approval criterion and standards;
 - c. The reasons for a conclusion to approve or deny; and
 - d. The examiner's decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable criteria and standards.

6. Within seven (7) calendar days from the date of the examiner's decision, the responsible official shall send the notice of examiner's decision to the applicant and applicant's representative, the neighborhood association in whose area the property in question is situated, and all parties of record. For applications on all lands within the Columbia River Gorge National Scenic Area, the responsible official shall also send a notice of the examiner's decision to the parties listed in 40.240.050.G.4. The notice shall include the following information:

- a. A statement that the examiner's decision and SEPA determination, if applicable, ~~((are final, but))~~ may be appealed as provided in Section 40.510.030(I) within fourteen (14) calendar days after the date the notice is sent. The appeal closing date shall be listed in boldface type. The statement shall describe how a party may appeal the examiner's decision or SEPA determination, or both, including applicable fees and the elements of a petition for review;
 - b. A statement that the complete case file is available for review. The statement shall list the place, days and times where the case file is available and the name and telephone number of the county representative to contact for information about the case.

7. Notice of Agricultural, Forest or Mineral Resource Activities.

- a. All plats, building permits or development approvals under this title issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible official. Such notice shall include the following disclosure:

The subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

1 b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants
2 to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with
3 the County Auditor.

4 (Amended: Ord. 2005-04-12; Ord. 2008-06-02; Ord. 2016-06-12; Ord. 2017-07-04; Ord.
5 2019-05-07)

6 E. Public Notice.

7 1. The notice of the application shall include the following information, to the extent known:

- 8 a. The project name, the case file number(s), date of application, the date the application was
9 determined fully complete, and the date the notice is sent;
- 10 b. A description of the proposed project and a list of project permits included with the application;
- 11 c. A description of the site, including current zoning and nearest road intersections, reasonably
12 sufficient to inform the reader of its location and zoning;
- 13 d. A map showing the subject property in relation to other properties or a reduced copy of the site plan;
- 14 e. The name of the applicant or applicant's representative and the name, address and telephone number
15 of a contact person for the applicant, if any;
- 16 f. A list of applicable code sections;
- 17 g. A statement of the public comment period, that the public has the right to comment on the
18 application, receive notice of and participate in any hearings, request a copy of the examiner's decision
19 once made, and any appeal rights. A statement shall indicate that written comments received by the county
20 within fifteen (15) calendar days from the date of the notice will be considered by staff in their
21 recommendations;
- 22 h. The date, time, place and type of hearing;
- 23 i. A statement of the preliminary SEPA determination, if one has been made;
- 24 j. A statement that a consolidated staff report and SEPA review will be available for inspection at least
25 fifteen (15) calendar days before the public hearing, and the deadline for submitting written comments;
- 26 k. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);
- 27 l. The date, place and times where information about the application may be examined and the name
28 and telephone number of the county representative to contact about the application;
- 29 m. The designation of the hearing examiner as the review authority, and a statement that the hearing
30 will be conducted in accordance with the rules of procedure adopted by the hearing examiner; and
- 31 n. Any additional information determined appropriate by the county.

32 o. Additional information as specified in Section 40.240.050.E. and 40.240.060.D for applications on
33 all lands within the Columbia River Gorge National Scenic Area.

34 2. Where the notice of application under Section 40.510.030(E)(1) is incomplete, a separate notice of public
35 hearing shall be provided which is consistent with Section 40.510.030(E)(3).

36 3. Distribution.

- 37 a. The responsible official shall mail a copy of the notice to:

- 1 (1) The applicant and the applicant's representative;
- 2 (2) The neighborhood association in whose area the property in question is situated, based on the
3 list of neighborhood associations kept by the responsible official;
- 4 (3) Owners of property within a radius of three hundred (300) feet of the property that is the subject
5 of the application if the subject property is inside the urban growth boundary or to owners of property
6 within a radius of five hundred (500) feet of the property if the subject property is outside the urban
7 growth boundary;
- 8 (a) The records of the County Assessor shall be used for determining the property owner of
9 record. The failure of a property owner to receive notice shall not affect the examiner's decision
10 if the notice was sent. A sworn certificate of mailing executed by the person who did the mailing
11 shall be evidence that notice was mailed to parties listed or referenced in the certificate, and
- 12 (b) If the applicant owns property adjoining the property that is the subject of the application,
13 then notice shall be mailed to owners of property within a three hundred (300) or five hundred
14 (500) foot radius, as provided in this subdivision, of the edge of the property owned by the
15 applicant adjoining or contiguous to the property that is the subject of the application;
- 16 (4) Agencies with jurisdiction; and
- 17 (5) To known interest groups and other people the responsible official believes may be affected by
18 the proposed action or who request such notice in writing.
- 19 (6) Other parties as outlined in 40.240.050.E and 40.240.060.D for applications on all lands within
20 the Columbia River Gorge National Scenic Area.
- 21 b. The county shall publish in a newspaper of general circulation a summary of the notice, including
22 the date, time and place of the hearing, the nature and location of the proposal and instructions for
23 obtaining further information.
- 24 c. Except for plat alteration applications that have been elevated to Type III applications, and
25 shorelines permits, the applicant shall post one (1) four (4) foot by eight (8) foot sign board on the
26 property subject to the development application as follows:
- 27 (1) Location. The board shall be installed at the midpoint along the site street frontage at a location
28 five (5) feet inside the property line, or as otherwise directed by the responsible official to maximize
29 visibility.
- 30 (2) Required Information. The sign shall include the following information:
- 31 (a) The project name, a brief description (i.e., one hundred (100) single-family lots; fifty
32 thousand (50,000) square feet of retail commercial space; etc.) case number, public hearing date,
33 time and location.
- 34 (b) The telephone number and Internet address through which interested parties may contact
35 the county for additional information.
- 36 (c) The preliminary land subdivision, site plan or other plot plan view depicting the
37 applicable development permit request.
- 38 (d) The name of the applicant's contact and his or her telephone number, should interested
39 parties wish to contact the applicant directly.
- 40 (e) The sign shall be made of materials that will endure inclement weather conditions typical
41 of Clark County.

(f) The responsible county official shall provide the applicant a template for the sign.

(3) Construction Specifications. The sign board shall be constructed with four (4) foot by eight (8) foot material and secured with at least two (2) four (4) inch by four (4) inch posts. The board shall be affixed to the posts with at least two (2) five (5) inch long three-eighths-inch diameter bolts, washers and nuts per post. Bracing shall be provided in order for the sign board to withstand high wind conditions that may occur. Posts shall be dug twenty-four (24) to thirty-six (36) inches into the ground for stability. The top of the sign board shall be designed to be between seven (7) and eight (8) feet above grade.

(4) Installation and Removal Requirements. The sign board, including all required information per Section 40.510.030(E)(3)(d)(2), shall be installed on the site at least thirty (30) calendar days in advance of the public hearing. The applicant shall maintain the sign board in good condition throughout the application review period, which shall extend through the time of the ((final)) county examiner's decision on the proposal including the expiration of the applicable appeal period of the hearings examiner's decision if submitted. If the sign board is removed, county review of the land use application may be discontinued until the board is replaced and has remained in place for the required period of time. The applicant shall remove the sign board within fourteen (14) calendar days after the ((final county)) examiner's decision on the application, including expiration of applicable appeal periods.

(5) Affidavit of Installation. The applicant shall execute an affidavit certifying where and when the sign board was posted and submit to the responsible official for inclusion in the project file.

(Amended: Ord. 2006-11-07; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2011-08-08; Ord. 2014-01-08)

F. Examiner's Decision Timelines.

Not more than ninety-two (92) days after the date an application is determined fully complete, the hearing examiner shall issue a written examiner's decision regarding the application(s); provided:

1. If a determination of significance (DS) pursuant to Chapter 40.570 is issued, then the hearing examiner shall issue a examiner's decision not sooner than seven (7) calendar days after a final environmental impact statement is issued.

2. An applicant may agree in writing to extend the time in which the hearing examiner shall issue a examiner's decision. If the hearing examiner grants such a request, the hearing examiner may consider new evidence the applicant introduces with or subsequent to the request. New evidence may not be considered unless the time extension would allow for public review and response to the new evidence.

3. In determining the number of days that have elapsed after the county has notified the applicant that the application is fully complete, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the county to correct plans, perform required studies, or provide additional required information. The responsible official shall specify a time period based on the complexity of the required information in which the required information must be submitted. The period shall be calculated from the date the county notifies the applicant of the need for additional information until the earlier of the date the county determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the county.

b. If the county determines that the information submitted by the applicant under Section 40.510.030(F)(3)(a) is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 40.510.030(F)(3)(a) shall apply as if a new request for studies had been made.

1 c. Any period of time during which an environmental impact statement (EIS) is being prepared;
2 provided, that the maximum time allowed to prepare an EIS shall not exceed one (1) year from the
3 issuance of the determination of significance unless the responsible official and applicant have otherwise
4 agreed in writing to a longer period of time. If no mutual written agreement is completed, then the
5 application shall become null and void after the one (1) year period unless the responsible official
6 determines that delay in completion is due to factors beyond the control of the applicant.

7 d. Any period of time as outlined in 40.240.180.D for applications on all lands within the Columbia
8 River Gorge National Scenic Area.

9 G. Vesting.

10 1. Type III applications (other than zone change proposals) shall be considered under the land development
11 regulations in effect at the time a fully complete application for preliminary approval is filed.

12 2. Contingent Vesting. An application which is subject to pre-application review shall earlier contingently
13 vest on the date a complete pre-application is submitted. Contingent vesting shall become final if a fully
14 complete application for substantially the same proposal is submitted within one hundred eighty (180) calendar
15 days of the date the responsible official issues its written summary of pre-application review subject to the
16 limitations of Section 40.510.030(A)(4). Requests to waive contingent vesting rights by the applicant shall be
17 approved, subject to the request being submitted in writing and submitted as part of the full application
18 package.

19 3. Special rules apply to approved planned unit developments under Section 40.520.080 and certain
20 nonconforming uses under Section 40.530.010.

21 4. For concurrency approval requirements, see Section 40.350.020.

22 (Amended: Ord. 2007-06-05)

23 H. Burden of Proof. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have
24 the burden of proving by substantial evidence compliance with applicable approval standards. Where evidence is
25 conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.

26 (Amended: Ord. 2007-11-13)

27 I. Appeals.

28 1. Applicability. Except as outlined in Section 40.510.030.I.3, an ((A final)) examiner's decision may be
29 appealed only by a party of record.

30 2. Except as outlined in 40.510.030.I.3, ((Final)) examiner's decisions may be appealed only if, within
31 twenty-one (21) calendar days after written notice of the examiner's decision is sent, a written appeal is filed in
32 the superior court of Clark County, pursuant to Chapter 36.70C RCW or applicable state law.

33 3. Except as otherwise provided in Columbia River Gorge Commission Rule 350-60-240, examiner's
34 decisions on all lands within the Columbia River Gorge National Scenic Area may be appealed by any person
35 or entity who is adversely affected by the examiner's decision and who files a written appeal with the Columbia
36 River Gorge Commission within thirty (30) calendar days after written notice of the examiner's decision is
37 sent. An examiner's decision is a final decision by the county for appeals of decisions regarding proposed
38 development of any lands within the Columbia River Gorge National Scenic Area.

39 (Amended: Ord. 2005-04-12; Ord. 2005-10-04; Ord. 2006-09-13; Ord. 2007-11-13; Ord.
40 2009-10-19; Ord. 2011-08-08)

41 J. Special appeal procedure applicable to uses licensed or certified by the Department of Social and Health
42 Services or the Department of Corrections.

1 1. In accordance with RCW 35.63.260 (Section 1, Chapter 119, Laws of 1998), prior to the filing of an
2 appeal of an ((final)) examiner's decision ((by a hearing examiner)) involving a conditional use permit
3 application requested by a party that is licensed or certified by the Department of Social and Health Services or
4 the Department of Corrections, the aggrieved party must, within five (5) days after the ((final)) examiner's
5 decision, initiate formal mediation procedures in an attempt to resolve the parties' differences. If, after initial
6 evaluation of the dispute, the parties agree to proceed with mediation, the mediation shall be conducted by a
7 trained mediator selected by agreement of the parties. The agreement to mediate shall be in writing and subject
8 to RCW 5.60.707. If the parties are unable to agree on a mediator, each party shall nominate a mediator and the
9 mediator shall be selected by lot from among the nominees. The mediator must be selected within five (5) days
10 after formal mediation procedures are initiated. The mediation process must be completed within fourteen (14)
11 days from the time the mediator is selected except that the mediation process may extend beyond fourteen (14)
12 days by agreement of the parties. The mediator shall, within the fourteen (14) day period or within the
13 extension if an extension is agreed to provide the parties with a written summary of the issues and any
14 agreements reached. If the parties agree, the mediation report shall be made available to the county. The cost of
15 the mediation shall be shared by the parties.

16 2. Any time limits for filing of appeals are tolled during the pendency of the mediation process.

17 3. As used in this section, "party" does not include county, city or town.

18 (Amended: Ord. 2007-11-13; Ord. 2021-07-03)

19 *****

20

21 **Section 65. Severability.** If any section, sentence, clause, or phrase of this ordinance is held invalid or
22 unconstitutional by a court of competent jurisdiction or the Growth Management Hearings Board, such invalidity or
23 unconstitutionality shall not affect the validity or unconstitutionality of any other section, sentence, clause, or phrase
24 of this ordinance.

25 **Section 66. Effective Date.** This ordinance shall go into effect thirty (30) days after the Columbia River Gorge
26 Commission and the Secretary of Agriculture confirm that the amendments to Chapter 40.240 Clark County Code
27 are consistent with the Columbia River Gorge National Scenic Area Management Plan.

28 **Section 67. Direction to Code Reviser.** Sections 1 and 7-10 are not subject to codification.

29 **Section 68. Instructions to the Clerk.** The Clerk of the County Council shall:

- 30 1. Transmit a copy of this ordinance to the Columbia River Gorge Commission within ten (10) days of its adoption
31 pursuant to RCW 43.97.015.
- 32 2. Record a copy of this ordinance with the Clark County Auditor.
- 33 3. Transmit a copy of this ordinance to the Washington State Department of Commerce within ten days of its
34 adoption pursuant to RCW 36.70A.106.
- 35 4. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290, and Clark
36 County Code 1.02.140, and transmit a copy to Community Planning.
- 37 5. Transmit a copy of the adopted ordinance to Code Publishing, Inc. to update the electronic version of the Clark
38 County Code after receiving notification from the Columbia River Gorge Commission and the Secretary of
39 Agriculture that the amendments are consistent with the Columbia River Gorge National Scenic Area
40 Management Plan.
- 41 6. Transmit a copy of the adopted ordinance to the Community Development Department, Code Administration,
42 Development Engineering, Land Use Review, and Permit Services, Public Works Development Inspection and
43 Transportation and the Prosecuting Attorney's Office, Civil Division.

1 Section 69. Roll Call Vote. The following persons voted in favor of the above ordinance [amendments]:

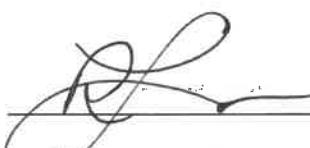
2 Temple Lentz; Julie Olson; Karen Bowerman;
3 Gary Medmigy; Eileen Quiring O'Brien.

4 ADOPTED this 1st of Dec. 2021.

5 COUNTY COUNCIL

6 CLARK COUNTY, WASHINGTON

7 Attest:

8
9 

10 Clerk to the Council

By:



Eileen Quiring O'Brien, Chair

12

13 Approved as to Form Only

By:

14 Anthony F. Golik

Temple Lentz, District 1

15 Prosecuting Attorney

16

17 By: /s/Christine Cook

By:

18 Christine Cook,

Julie Olson, District 2

19 Senior Deputy Prosecuting Attorney

20

By:

21

Karen Dill Bowerman, District 3

22

By:

23

Gary Medvигy, District 4

24

25

