



**TO:** Columbia River Gorge Commission

**FROM:** Staff, Columbia River Gorge Commission

**DATE:** March 8, 2022

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

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### **Action Requested**

Hold a public hearing on Hood River 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.

Hood River County adopted its revised National Scenic Area land use ordinance on November 15, 2021 and on December 13, 2021, transmitted it to the Gorge Commission for review. The National Scenic Area Act requires the Gorge Commission act within 90 days after Hood River County transmits the ordinance or the ordinance will be deemed consistent with the Management Plan. The 90th day is March 13, 2022.

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

## **Summary of Hood River County’s Process Revising its National Scenic Area Ordinance**

Shortly after transmitting the revised Management Plan to the counties, Commission staff met with Hood River 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 Hood River County’s revised NSA Ordinance in October 2021. Most sections of Hood River 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 Hood River County’s draft ordinance that staff believed were not consistent with the Management Plan, staff noted those differences in comments, and directed Hood River County staff towards the appropriate language in the Management Plan.

The Hood River County Planning Commission had a work session on September 8, 2021. Commission staff attended and gave a brief presentation about the Gorge 2020 process and answered questions from the Commissioners. The Planning Commission recommended adoption of the revisions to the Hood River County ordinance.

The Hood River County Planning Commission held a public hearing on the NSA ordinance and associated updates on September 22, 2021. County staff presented the general updates and the changes made since the September 8, 2021 work session.

On October 18, 2021, the Hood River Board of County Commissioners held a work session to conduct a first reading of the draft revised NSA Ordinance.

On November 15, 2021, the Board of County Commissioners held its second reading and public hearing to discuss and adopt the revisions to their NSA ordinance. After deliberation, the Board voted 4-1 to adopt the revisions.

## **Staff Review of Hood River 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.

<b>HR LUO Rule No.</b>	<b>HR Page</b>	<b>MGMT Page</b>	<b>Explanation</b>
75.040(75)  Definitions	19	N/A	Updated definition of <i>Established Winery</i> to include <i>Cidery</i> . The Management Plan does not have a definition for <i>Established Winery/Cidery</i> . The Management Plan has an <i>Existing Uses or Structures</i> definition for established uses. Hood River County only uses the term “established winery/cidery” to require that the use be present and operating on a parcel before permitting commercial events, rather than changing how a use is determined to be “existing” under the definition of “Existing Use or Structure.”

			<p>With this understanding, staff recommends the definition of “Established Winery” is consistent with the Management Plan.</p> <p>Staff points out that the use of the term “established winery” in the commercial events section of Hood River County’s ordinance raises a consistency issue, which is discussed below in section 75.125(K)(2)(a).</p>
75.040(121)  Definitions	25	N/A	<p>Added definition for <i>Management Plan</i>. The Management Plan does not have a definition for “<i>Management Plan</i>.” Staff points out that the definition refers only to the original adoption date, which could be interpreted to mean that references to the Management Plan in Hood River County’s ordinance refer to only the original Management Plan, not the Management Plan as revised and amended since then.</p> <p>Staff recommends this definition is consistent with the Management Plan so long as Hood River County interprets and applies it to mean the mean the most current Management Plan as revised and amended.</p>
75.040(128)  Definitions	27	N/A	<p>Added definition for <i>National Scenic Area</i> and included a statement that Article 75 only applies to those portions of the National Scenic Area that are in Hood River County.</p> <p>Staff has no concerns with this definition.</p>
75.075(4)  Existing Uses and Discontinued Uses	51	N/A	<p>Hood River County is removing the provision for expansion of existing commercial uses and multifamily residential in the SMA. This provision was stricken from the Management Plan in 2008 in a federal court decision on the 2004 revised Management Plan.</p> <p>Removing this provision is consistent with the Management Plan.</p>
75.150(2)(b)(D)  Variances from Setbacks and Buffers within the General Management Area	76	N/A	<p>Added text stating “However, this standard shall not apply to road or property line setback requirements, which are not regulated by the Management Plan . . .”</p> <p>Staff points out that the Management Plan does include setbacks from property boundaries for agricultural buffers and other purposes.</p> <p>As written, this provision could be interpreted to exclude these setbacks from the National Scenic Area standards. If the provision would have stated, “. . . requirements <u>that</u> are not regulated by the Management Plan . . .” (using “that” instead of “which” to create the defining clause) then the provision</p>

			would be more clear. Staff recommends that the Commission may find this provision consistent with the Management Plan so long as Hood River County does not use it to exclude setback requirements that are specified in the Management Plan.
75.150(3)  Tribal Government Notice	78	452	<p>Hood River omits the following provision from the Management Plan: <i>Local governments shall send a notice to the governments of the four Columbia River treaty tribes when for all new review uses, requesting comments, recommendations, or concerns relating to the protection of treaty rights, including rights to access, hunt, fish, and gather.</i></p> <p>The ordinance requires notice to the tribes for all the purposes specified in the Management Plan, thus the only concern with this provision is the content of the notice.</p> <p>Staff recommends that the Commission may find the ordinance to be consistent with the Management Plan so long as the notices to the Treaty Tribes include the language specified in the Management Plan.</p>
75.150(3)(a)(A)(ii)  Tribal Government Notice	78	453	Statement includes <i>estaimatedperiod</i> . This is a typo.
75.152(E)(i)  Home Occupations	86	358	<p>In the Management Plan, Bed and Breakfast Inns that are two bedrooms or less are considered to be a home occupation and must meet those standards. This provision in the Hood River County ordinance appears to have a typo in its reference to “Sections 152 (E) and (F).” Section (F) in Hood River County’s current (not yet updated) code is for home occupations. However, in this updated code, Hood River added a new section (F) for the new overnight accommodations provisions, and the home occupations section became section (G), so the original provision should have been updated to “Sections 152 (E) and (G).”</p> <p>During Plan Review, staff recommended that B&amp;Bs be collapsed into the overnight accommodations provisions, but the Commission chose to maintain B&amp;Bs as a separate use.</p> <p>Staff recommends the Commission may find this provision consistent with the Management Plan with the understanding that this is a typo and that B&amp;B that are two bedrooms or less are not subject to the new overnight accommodations provisions.</p>

75.152(F) Home Occupations	87	N/A	<p>Hood River County has added additional requirements for overnight accommodations required by Oregon licensing laws.</p> <p>Staff recommends these additional requirements do not affect consistency with the Management Plan.</p>
75.125(K)(2)(a) Commercial Events	97	366	<p>This provision in the commercial events section of Hood River County’s code states: “The use shall be in conjunction with an established winery/cidery or established bed and breakfast inn . . .”</p> <p>During Plan review, the Commission removed “winery” from the list of uses at which commercial events are permitted because a winery is not a commercial use. Commercial events are permitted at “wine or cider sales and tasting rooms,” as specified in subsection 2.A. of this section of the Management Plan. Hood River updated the definition of “winery or cidery,” which states that the winery is distinct from the wine or cider sales and tasting room. Hood River County seems to have missed this detail and needs to use “wine or cider sales and tasting room” in place of “winery/cidery” to make the text of this provision consistent with the Management Plan.</p> <p>Staff recommends that this provision is generally consistent, so long as Hood River County implements this provision consistent with subsection 2.A. from the Management Plan until it fixes this provision in its ordinance.</p>
75.190(1)(h)(C) Agricultural Uses	150	221	<p>Hood River County’s ordinance requires proof of gross annual income from the sale of farm products in the last two years, or three of the last five years.</p> <p>Staff recommends this is more protective of farmland than the Management Plan because it requires a period of actual sales before establishing a farm dwelling, whereas the Management Plan does not define a period of actual sales. Staff recommends this provision is consistent with the Management Plan.</p>
75.340(3) Review Uses - All Lands Designated Open Space	183	261 & 263	<p>Removed Commercial Trapping from uses that may be allowed in State Parks. In the OS designation, according to the Management Plane, Commercial Trappings is only allowed in the Mosley Lakes Natural Area &amp; the Mouth of the Wind River.</p> <p>Staff recommends this is consistent with the Management Plan. The savings provisions in the Act specify that the Management Plan cannot affect hunting or fishing rights. Hood River County can, however, chose to do so under other authority.</p>

75.540(1)(c)(E) & 75.540(1)(d)  GMA Cultural Resources Review Criteria	230 & 232	94 & 99	<p>Added statement, <i>Project applicants are responsible for paying for evaluations of significance and mitigation plans for cultural resources that are discovered during, construction of small-scale and large-scale uses in the GMA.</i></p> <p>Deleted statement, <i>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.</i></p> <p>This change does not affect consistency because the resources will be protected the same whether the applicant or the Gorge Commission conducts and pays for the additional studies.</p>
75.550(4)(e)  SMA Cultural Resources Review Criteria	247	106	Staff points out that the “Determination of Cumulative Effects” does not have a section or subsection number. This does not affect consistency with the Management Plan.
75.620(2)(c)(E)  Special Management Area Recreation Resource Review Criteria	309	N/A	Staff points out the subsection numbering is incorrect. It reads (B) (C), (D), (E), (C), (D). This does not affect consistency with the Management Plan.

**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 areas 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 Hood River 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 Hood River 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 Hood River County.

# **Exhibit “A”**

## **Hood River County Zoning Ordinance Amendment**

**Amended Article 75  
(National Scenic Area Ordinance)**

**(File #21-0034)**

# Hood River County Zoning Ordinance

## Article 75 (National Scenic Area Ordinance)



**Adopted by Hood River County (Ordinance No. 268)  
June 29, 2005**

**Acknowledged by the Columbia River Gorge Commission  
September 30, 2005**

**Effective Date: January 1, 2006**

**Amended: January 20, 2009 (Ordinance No. 294)  
Acknowledged by the Columbia River Gorge Commission: May 12, 2009  
Effective Date: July 16, 2009**

**Amended: May 7, 2018 (Ordinance No. 359)  
Acknowledged by the Columbia River Gorge Commission: June 2018  
Effective Date: June 12, 2018**

**Amended: \_\_\_\_\_, 2021 (Ordinance No. \_\_\_\_)  
Acknowledged by the Columbia River Gorge Commission: \_\_\_\_\_, 2021  
Effective Date: \_\_\_\_\_, 2021**

**ARTICLE 75 - COLUMBIA RIVER GORGE**

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## ARTICLE 75 - COLUMBIA RIVER GORGE

### NATIONAL SCENIC AREA ORDINANCE (NSA)

#### 010. Purpose and Authority

- (1) The purposes of this Ordinance are (a) to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge National Scenic Area in the portions located in Hood River County, and (b) to protect and support the economy of the Columbia River Gorge National Scenic Area in the portions located within Hood River County by allowing future economic development in a manner that is consistent with (a) above.
- (2) The guidelines, standards and regulations set forth in this Ordinance are adopted as referenced and required in Oregon Revised Statute 196, and are consistent with the Columbia River Gorge National Scenic Area Act, Public Law 99-663, the Management Plan adopted by the Columbia River Gorge Commission, October 15, 1991 with concurrence by the U.S. Secretary of Agriculture, February 13, 1992, and subsequent revisions adopted April 27, 2004 and concurred with by the Secretary of Agriculture on August 3, 2004, and as subsequently amended. If any provision of this Ordinance is less restrictive than any provision of the Management Plan, state law, or this Ordinance the more restrictive provision shall govern.

#### 015. Area Affected

This Ordinance applies to lands in Hood River County, Oregon within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act. Lands within the Scenic Area in Hood River County are depicted on maps entitled Boundary Map, Columbia River Gorge National Scenic Area, on sheets numbered NSA-001, dated September 1986 and referenced in Public Law 99-663.

#### 020. Plan and Zoning Designation

The following zoning districts implement the land use designations shown on the map entitled Columbia River Gorge National Scenic Area Management Plan, Land Use Designations, dated 1992, as adopted by the Columbia Gorge Commission October 15, 1991:

- (1) GENERAL MANAGEMENT AREA (GMA)
  - (a) Large-Scale Agriculture (AG-1).
  - (b) Small-Scale Agriculture (AG-2).
  - (c) Commercial Forestland (F-1).
  - (d) Large Woodland (F-2).
  - (e) Small Woodland (F-3).
  - (f) Open Space (OS).

- (g) Rural Residential (RR).
- (h) Public Recreation (PR).

(2) SPECIAL MANAGEMENT AREAS (SMA)

- (a) Agriculture (AG).
- (b) Forest (F).
- (c) Open Space (OS).
- (d) Public Recreation (PR).

(3) The following additional plan and zoning designations were adopted by the County in 1980 and 1984 and also apply to lands in the NSA in Hood River County. If conflicts are noted between provisions in these plan and zoning designations and Article 75, those in Article 75 shall prevail.

(a) Plan Designation: The Environmental Plan designation applies to the following symbols on the plan and zoning designation maps.

- (A) Floodplain and Environmental Protection.
- (B) Loose Talus.
- (C) Earth Flow and Slump.

(b) Zoning Designations:

(A) Geologic Hazard (GH) is applied to the following symbols: Deep Bedrock Slide; Loose Talus; and Earth flow and Slump.

(B) Environmental Protection (EP).

(C) Floodplain (FP).

(D) Airport Height Combining (AH).

(4) The above zoning districts are also shown on the County's Zoning Atlas maps, available for review in the County Planning Department office.

(5) When evaluating proposed uses, the following additional NSA Maps will also be utilized: Landscape Setting and Recreation Intensity Classification referenced in Sections 520, 530, 610 and 620.

(6) The Indian Trust Lands land use designation is shown on the NSA Land Use Designation Map, however, a zoning district was not created because Indian Lands are exempt from provisions of the National Scenic Area Act and County and State land use regulations.

- (7) The Urban Area designation shown on the NSA Land Use Designation Map coincides with the Urban Area Boundary, shown on the map entitled Boundary Map, Columbia Gorge National Scenic Area on sheet number NSA-001.
- (8) Unless otherwise specified in Article 75, the County's Zoning and Subdivision Ordinances apply to all lands in the NSA. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

### **030. Review and Approval Required**

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

### **035. Plan Amendment**

- (1) Pursuant to provisions in Section 6(h) and the Management Plan, Chapter 1 Gorge Commission Role, the Gorge Commission may amend the Management Plan, including land use and zoning designations and ordinances, upon application by any person or upon its own motion, if it determines that conditions within the Scenic Area have changed significantly since adoption of the Management Plan. Plan amendments must be consistent with the Scenic Area Act and other provisions of the Plan.
- (2) The Gorge Commission shall submit amendments of the Management Plan to the Secretary of Agriculture in accordance with Section 6(h) of the Scenic Area Act.

### **040. Definitions**

Unless otherwise noted, the following words, terms and their derivations shall have the following meanings:

- (1) **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.
- (2) **Accessible:** In compliance with the Federal accessibility guidelines and standards. Accessible sites and facilities do not contain barriers limiting their use by people with disabilities.
- (3) **Accessory building/structure:** A building or structure 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.

- (4) Accessory renewable energy system:— 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.
- (5) **Active wildlife site:** A wildlife site that has been used within the past 5 years by a sensitive wildlife species.
- (6) Addition:— An extension or increase in the area or height of an existing building.
- (7) **Adversely affect ~~of 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:
  - (a) the context of a proposed action;
  - (b) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
  - (c) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and
  - (d) 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.
- (8) **Agency official:** The federal, state, or local agency head or designee who has authority over a proposed project.
- (9) **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.
- (10) **Agricultural ~~structure~~/building:** A ~~structure 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), and~~ processing facilities, ~~storage bins and structures.~~

- (11) **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.
- (12) **Agricultural structure:** A structure (not including buildings) located on a farm or ranch and used in the operation. These include, but are not limited to: wind machines (orchards), storage bins, fences, trellises, and irrigation systems.
- (13) **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, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees, except where timber is the primary crop and Christmas trees are an incidental product harvested at an early stage of the timber rotation. Current employment of land for agricultural use includes:
- (a) The operation or use of farmland subject to any agriculture-related government program.
  - (b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.
  - (c) Land planted in orchards or other perennials prior to maturity.
  - (d) Land under buildings supporting accepted agricultural practices.
- Agricultural use does not include livestock feedlots.
- (14) **Air:** The mixture of gases comprising the Earth's atmosphere.
- (15) **Anadromous fish:** Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).
- (16) **Anaerobic:** A condition in which molecular oxygen is absent (or effectively so) from the environment.
- (17) **Aquaculture:** The cultivation, maintenance, and harvesting of aquatic species.
- (18) **Aquatic area:** The water area of a stream, pond, or lake measured at the ordinary high water mark.
- (19) **Archaeological resources:** See cultural resource.

- (20) **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.
- (21) **Background:** 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.
- (22) **Bed and breakfast inn:** An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six 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 traveler transient accommodations, not as rooming or boarding houses.
- (23) **Best Management Practices (BMPs):** Conservation techniques and management measures that
- (a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
  - (b) minimize adverse effects to groundwater and surface water flow and circulation patterns; and
  - (c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.
- (24) **Biodiversity (SMA):** A diversity of biological organisms at the genetic, species ecosystem, and landscape levels.
- (25) **Board:** Board of County Commissioners, Hood River County.
- (26) **Boat landing:** Cleared area or developed structure used to facilitate launching or retrieving watercraft.
- (27) **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.
- (28) **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.
- (29) **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 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 60 days in any consecutive 12-month period.

- (30) **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.
- (31) **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.
- (32) **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.
- (33) **Cascadian architecture (SMA):** Architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
- (34) **Catastrophic situations (SMA):** Forces including, but not limited to fire, insect and disease infestations, and earth movements.
- (35) **Childcare center:** A facility providing daycare to three or more children, but not including:
  - (a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.
  - (b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.
  - (c) The provision of short-term care related to or associated with group athletic or social activities.
  - (d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.
- (36) **Columbia River Gorge National Scenic Area Graphic Signing System:** Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.
- (37) **Columbia River treaty tribes:** See definition for Indian tribes.
- (38) **Commercial event:** – 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.

- (39) **Commercial development ~~or~~ use:** 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.
- (40) **Commercial forest products:** These include timber for lumber, pulp and firewood for commercial purposes.
- (41) **Commercial recreation:** Any private (non-governmental) 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.
- (42) **Commission:** The Columbia River Gorge Commission (GC).
- (43) **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.
- (44) **Consulting parties (cultural resources):** Organizations or individuals who submit substantive written comments to the Planning Director in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
- (45) **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.
- (46) **Counties:** In addition to Hood River County, the five counties within the National Scenic Area: Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
- (47) **Created opening (SMA):** A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.
- (48) **Creation (wetlands):** A human activity that converts upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).
- (49) **Cultivation:** Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

- (50) **Cultural resource:** 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.

- (a) **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 50 years old.~~

~~Archaeological resources 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 by-products 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.

- (b) **Historic buildings and structures.** ~~Standing or above-ground buildings and structures that are at least 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.

- (c) **Traditional cultural properties.** ~~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.~~

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."

- (d) 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.
- (50) Culturally significant foods: Natural resources used by Native Americans for subsistence, medicine and ceremony, including: water, fish, big game, roots, and berries.
- (51) Culturally significant plants and wildlife: Native plant and animal species essential to the culture of a Native American group.
- (52) **Cumulative effects:** The combined effects of two 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.
- (53) **Cut:** An area where soil or earth is excavated or removed in conjunction with development activities.
- (54) **Dedicated site:** An area actively devoted to the current use and as delineated on the site plan.
- (55) **Deer and elk winter range:** Areas normally used or capable of being used by deer and elk from December through April.
- (56) **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.
- (57) **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.

- (58) **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.
- (59) **Development:** Any land division or ~~structure~~ new construction or modification of buildings, structures and roads, and any earth-moving activity, including but not limited to, ~~new construction of buildings and structures, and~~ mining, dredging, filling, grading, paving, and excavation.
- (60) **Diameter at breast height (dbh):** The diameter of a tree as measured at breast height.
- (61) **Distance zone:** 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
- (62) **Director:** The Planning Director of the Hood River County Planning and Community Development Department or his designate. The Director is responsible for the administration, interpretation and implementation of this Ordinance.
- (63) **Duplex:** A building containing two dwelling units and designed for occupancy by two families.
- (64) **Dwelling, single-family:** A detached building containing one dwelling unit and designed for occupancy by one family only.
- (65) **Dwelling unit:** A single self-contained unit ~~designed for occupancy by one family and having not more than one cooking with basic facility needs for day-to-day living.~~ Facility needs include, but are not limited to, a one food preparation area or kitchen, bedrooms, and a full bathroom.
- (66) **Earth materials:** Any rock, natural soil or any combination thereof. Earth materials do not include non-earth 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).
- (67) **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 Yakama tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

- (68) **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.
- (69) **Emergency/disaster response:** Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.
- (70) **Endemic:** Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.
- (71) **Enhancement (natural and scenic resources):** 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.
- ~~(61) **Enhancement (natural resources):** A human activity that increases one 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.~~
- (72) **Ephemeral streams (SMA):** streams that contain flowing water only during, and for a short duration after, precipitation events.
- (73) **Established Bed & Breakfast (B&B):** A use established as a B&B by a permit approved under Article 56 (Bed & Breakfast Facilities), or Article 65 (Non-Conforming Use) of the Hood River County Zoning Ordinance, or otherwise lawfully established; and in operation for at least a year. B&Bs are allowed to be run by owners or lessees, only if residents, as per Article 56 (B&B) of the County Zoning Ordinance.
- (74) **Established Farm:** A parcel or parcels operating as a farm with a demonstrated capability of meeting the test for a ‘principal farm operator dwelling’ as per Section 190 (1)(h). The farm must be owner-occupied.

- (75) **Established Winery/Cidery:** A winery/cidery that has been approved under the provisions of this Article or otherwise lawfully established. The winery/cidery must be owner-operated.
- (76) Equitable recreation: development and services that are equally accessible and available to all people regardless of income level, ethnicity, gender, ability, or age.
- (77) **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.
- (78) Existing industrial complex: Areas including some existing industrial use and where readily visible remnants of past industrial activities exist. The complex includes buildings, including those abandoned or partially abandoned, paved areas, stockpiles, equipment storage areas, quarry areas, etc., and may include isolated patches of vegetation or rock outcroppings surrounded by areas described above. The complex does not extend to include areas where evidence of past activity is no longer readily evident in the landscape.
- (79) **Existing use or structure:** Any use or structure that was legally established and that has continued to operate lawfully and has not been discontinued. Legally established means: (1) 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) 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.
- (80) **Exploration, development (extraction and excavation), and production of mineral resources:** Includes all or any part of the process of surface, underground, or submerged mining of mineral resources, and transportation of mineral resources from the site. 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 the Management Plan, 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 ~~to~~ and transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

- (81) **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.
- (82) **Finished grade:** The final elevation of the ground level of a property after construction is completed.
- (83) **Fire break:** A break in ground cover fuels, adjacent to and surrounding buildings.
- (84) **Footprint:** The area that falls directly beneath and shares the same perimeter as a structure.
- (85) **Forbs:** Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.
- (86) **Foreground (SMA):** 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 One-half mile on either side of a traveled road or trail.
- (87) **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.
- (88) **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 12 years or less are considered agricultural uses.
- (89) **Forest practice (GMA):** Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act.
- (90) **Forest products:** Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pinecones, and huckleberries.
- (91) **Forest Service:** The United States Department of Agriculture Forest Service – National Scenic Area Office.
- (92) **Forest stand structure (SMA):** The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

- (93) **Forest use:** The growing, propagation, and harvesting of forest tree species and other forest products except for areas used exclusively for production of Christmas trees.
- (94) **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 percent 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.
- (95) **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.
- (96) **Gorge Commission: The Columbia River Gorge Commission**
- (97) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform International Building Code.
- (97) **Grading:** Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- (98) **Guideline:** According to Oregon Land Use Law, guidelines are not mandatory, but advisory. However, for the purposes of Article 75, the term Guideline is mandatory because of Public Law 99.663.
- (99) **Hazard tree (SMA):** A tree with a structural defect that will predictably result in whole or partial failure within 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.
- (100) **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.
- (101) **Herbaceous:** A plant with no persistent woody stem above the ground, with characteristics of an herb.

- (102) **Herbs:** Non-woody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)
- (103) **Historic buildings and structures:** See cultural resource.
- (104) **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.
- (105) **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.
- (106) **Horses, boarding of (GMA):** The stabling, feeding, and grooming or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.
- (107) **Hydric soil:** A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- (108) **Immediate Foreground for scenic corridors:** 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).
- (109) **In-kind replacement:** A development or land use which is the same as or smaller than an existing or destroyed use or structure. An in-kind building or structure may be shorter in height, smaller mass, and contained entirely within the existing footprint of the existing use or destroyed use or structure.
- (110) **In-lieu or treaty fishing access 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, Section 401. Additional in-lieu or treaty fishing access sites will be provided for.
- ~~(95) **Indian 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 Yakama Indian Nation (Tribal Council).~~

- (111) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs ~~Reservation of Oregon~~, and the Confederated Tribes of the Umatilla Indian Reservation. ~~(As listed in Public Law 99-663.)~~
- (112) **Industrial uses:** Any use of land or water primarily involved in:
- (a) Assembly or manufacture of goods or products;
  - (b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;
  - (c) 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
  - (d) Production of electric power for commercial purposes.
- (113) **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.
- (114) **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.
- (115) **Key viewing areas:** Those portions of identified important public roads, parks, or other vantage points within the National Scenic Area from which the public views National Scenic Area landscapes. Such portions include gathering points, rest areas, roads and trails that provide primary access to the area, parking lots, and associated recreation area. Identified areas ~~These~~ include:
- (a) Key viewing areas include the following:
    - Historic Columbia River Highway (including the Historic Columbia River State Trail)
    - Highway I-84, including rest stops
    - Washington State Route 14
    - Panorama Point Park
    - Dog Mountain Trail
    - Cook-Underwood Road
    - Rowena Plateau and Nature Conservancy Viewpoint

Columbia River  
Washington State Route 141  
Washington State Route 142  
Oregon Highway 35  
Pacific Crest Trail  
Beacon Rock  
Bonneville Dam Visitors Centers

(b) SMA only:

Old Highway 8 (previously known as Old Washington State Route 14 and (County Road 1230)  
Wyeth Bench Road (also known as Wyeth Road)  
Larch Mountain Road  
Sherrard Point on Larch Mountain

- (116) **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 partitions and subdivisions.
- (117) **Landscape setting:** The combination of land use, and cultural features, landform pattern and features, and vegetation patterns and waterform that distinguish an area in appearance and character from other portions of the National Scenic Area.
- (118) **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.
- (119) **Lot line adjustment:** Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.
- (120) **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.

- (121) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. 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.

(122) Managerial Setting: the on-site controls (signs, regulations, or other regimentation) and types of facilities recreationists could expect when visiting recreation sites.

(123) May: Action is not mandatory, but discretionary.

(124) Middleground: 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.

~~(123) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. 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.~~

~~(124) May: Action is not mandatory, but discretionary.~~

(125) **Mitigation:** The use of any or all of the following actions, in the following order of priority:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Offsetting impacts by creating or enhancing affected resources.

(f) Monitoring the result of mitigation actions and taking appropriate corrective actions.

(126) **Mosaic (SMA):** The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(127) **Multi-family dwelling:** A dwelling constructed or modified into two or more ~~single-family dwelling~~ units.

- (128) National Scenic Area: The Columbia River Gorge National Scenic Area. Article 75 applies only to those portions of the scenic area that are located in Hood River County.
- (129) **Native species:** Species that naturally inhabit an area.
- (130) Natural grade: The undisturbed elevation of the ground level of a property before any excavation or construction operations.
- (131) **Natural resources:** Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
- (132) **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.
- (133) **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.
- (134) **Nonprofit organization:** An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.
- (135) **Not visually evident (SMA):** 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 developments, structures or uses that are not visually noticeable to the casual visitor and the defining landscape setting characteristics appear intact. Deviations may be present but must repeat form, line, color, and texture and pattern common to the natural landscape setting so completely and at such scale, proportion that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., ~~shall that it~~ not be noticeable.
- (136) **Old growth (SMA):** A forest stand usually at least 180-220 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.
- (137) **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 enumerated in Public Law 99.663 are:

- (a) Scenic cultural and historic areas;
  - (b) Fish and wildlife habitat;
  - (c) 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;
  - (d) Ecologically and scientifically significant natural areas;
  - (e) Outstanding scenic views and sites;
  - (f) Water areas and wetlands;
  - (g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas, which are culturally or historically significant;
  - (h) Potential and existing recreation resources; and
  - (i) Federal and state wild, scenic and recreation waterways.
- (138) **Operational (SMA):** For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.
- (139) **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.
- (140) **Other related major structure (SMA):** A structure related to a dwelling on a parcel in the SMA that is less than 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."
- (141) **Overnight accommodations (GMA):** The rental of one or more rooms located in a 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.

(142) **Overstory (SMA):** For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

(143) **Parcel:**

- (a) 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 the Management Plan shall not be considered a parcel.
- (b) 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 16, 1986.
- (c) 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 Office prior to the Final Interim Guidelines.
- (d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:
  - (A) Is a unit of land solely created to establish a separate tax account;
  - (B) Lies in different counties;
  - (C) Lies in different Sections or government lots;
  - (D) Lies in different land use or zoning designations; or
  - (E) Is dissected by a public or private road.

(144) **Physical Settings:** 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.

(145) **Planning Commission:** Hood River County Planning Commission.

(146) **Planning Director:** The Director of the Hood River County Planning and Community Development Department or his designate.

(147) **Practicable:** Able to be done, considering technology and cost.

- (148) **Preexisting:** Existing prior to the adoption of the first Columbia River Gorge National Scenic Area Management Plan on October 15, 1991.
- (149) **Previously disturbed:** An area of land where the natural surface has been graded, excavated, paved and/or graveled.
- (150) **Priority Habitat:** Areas that provide habitat for sensitive wildlife determined by Forest Service, Oregon Department of Fish & Wildlife, or Washington Department of Fish & Wildlife.
- (151) **Primarily:** A clear majority as measured by volume, weight, or value.
- (152) **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.
- (153) **Public dock:** A dock constructed, maintained and operated by a federal, state, local, or tribal government entity to provide public access to a water body.
- (154) **Public Recreation Designation:** A land Use Designation for public parks, recreation sites and public and private lands suitable for moderate and/or high intensity recreation uses. Lands designated Public Recreation are readily accessible, lack hazards or highly sensitive resources and could potentially provide two or more of the following opportunities: river access, multiple recreation uses, scenic appreciation, facilities satisfying a demonstrated public need, trailheads and enhancement of scenic, natural and/or cultural resources. Within the SMA, public recreation shall be natural resource based.
- (155) **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.
- (156) **Rare plant species:** ~~Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.~~ Various categories of plants and plant communities cited in federal and state programs. Rare plants and rare plant ecosystems are:
1. Endemic to the Columbia River Gorge and vicinity,
  2. Listed as endangered or threatened pursuant to federal or state endangered species acts, or
  3. Designated global or state status rank 1, 2, or 3 by the Oregon Biodiversity Information Center.

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.

(157) **Rare wildlife species:** Wildlife species that are:

1. Listed as endangered or threatened pursuant to federal or state endangered species acts,
2. Listed as sensitive by the Oregon Fish and Wildlife Commission, or
3. Considered to be of special interest to wildlife management authorities and the public (great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).

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.

(158) **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 1/4 mile of land that does not contain any such **recreational** developments or improvements, except for roads and/or pathways.

(159) **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.

(160) **Recreation Opportunity Spectrum (ROS):** 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).

- (a) **Primitive:** Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.
- (b) **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.
- (c) **Roaded Natural:** Roaded areas with moderately frequent human encounters and with resource modifications evident.
- (d) **Rural:** Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

- (e) 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.
  - (f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.
- (161) **Recreation resources:** Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
- (162) **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).
- (163) **Recreation Setting:** the tool for managing recreation development and opportunities based on the sites social, physical, and managerial setting
- (164) **Reflective surface:** providing a reflection; capable of reflecting light or other radiation.
- (165) **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).
- (166) **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 pre-construction condition.
- (167) **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.

- (168) **Resource-based recreation:** Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the National Scenic Area and that do not adversely affect those resources upon which they depend.
- (169) **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.
- (170) **Review uses:** Proposed uses and developments that must be reviewed by the County Planning Department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan, and with provisions of Article 75.
- (171) **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.
- (172) **Road:** 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:
- (a) Ways described as streets, highways, throughways, or alleys.
  - (b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.
  - (c) Structures that provide for continuity of the right-of-way, such as bridges.
- ~~(146) **Scenic Area:** The Columbia River Gorge National Scenic Area, established pursuant to Public Law 99.663. Article 75 applies only to those portions of the scenic area that are located in Hood River County.~~
- (173) **Scenery Management System:** The overall framework for the orderly inventory, analysis, and management of scenery developed in coordination with the Forest Service.
- (174) **Scenic travel corridor:** Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Wyeth Bench Road located in the National Scenic Area and specifically designated to be managed as scenic and recreational travel routes.
- (175) **Secretary:** The U.S. Secretary ~~U.S. Department~~ of Agriculture.

~~(149) **Sensitive plant species:** Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon Natural Heritage Program.~~

~~— In the SMA, 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.~~

~~(150) **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as sensitive by the Oregon Fish and Wildlife Commission, or (3) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.~~

~~— In the SMA, 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.~~

(176) **Service station:** A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(177) **Serviceable:** Presently useable.

(178) **Shall:** Action is mandatory.

(179) **Should:** Action is encouraged.

(180) **Shrub:** A woody plant usually greater than 3 feet but less than 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 3 feet tall shall be considered part of the herbaceous layer.)

(181) **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.

(182) **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".)

- (183) **Skyline:** The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, and is topographically visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). 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.
- (184) **Social Settings:** identifies the opportunities for solitude as well as quantity and type of encounters visitors could experience when visiting a recreation site or area.
- (185) **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.
- (186) **Special habitat area:** Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
- (187) **Special streams:** Streams that are primary water supplies for fish hatcheries and rearing ponds.
- (188) **Stand:** A group of trees possessing uniformity in regard to type, age, vigor, or size.
- (189) **Story:** A single floor level of a structure, as defined by the Uniform International Building Code.
- (190) **Streams:** Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include road side ditches, 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 classes: perennial streams and intermittent or ephemeral 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 (ephemeral), during years of normal precipitation.

- (191) **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, patios, driveways, and additions/alterations to structures, including repaving or resurfacing roads, driveways, and patios.
- (192) **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.
- (193) **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.
- (194) **Suitability:** The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; whether the land is committed to another land use that does not allow for agricultural use; 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.
- (195) **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 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.
- (196) **Topographic Visibility:** 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.
- (197) **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.
- (198) **Traditional foods:** Natural and cultural resources that Native Americans rely on for sustenance, based on history, culture and tradition.
- (199) **Trail Characteristics:** Tools to describe the types of trail conditions that recreationists should expect when visiting a recreation resource.
- ~~(171) **Travelers accommodations:** 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.~~

- (200) **Treatment (SMA):** For forest practices, a site-specific operation that carries out the forest management objectives for an area.
- (201) **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.
- (202) **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 (Tribal Council), and the Confederated Tribes and Bands of the Yakama Nation (Tribal Council).
- (203) **Tributary fish habitat:** Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.
- (204) **Unobtrusive:** 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.
- (205) **Understory (SMA):** For forest practices, the shorter or immature trees below the tall or mature overstory trees.
- (206) **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 CRF 800.16(y)].
- (207) **Unimproved lands:** Lands that generally do not have developments.
- (208) **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, ~~and~~/or hydrologic characteristics associated with wetlands.
- (209) **Uses allowed outright:** New uses and developments that may occur without being reviewed by the Hood River County Planning Department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
- (210) **Utility facility:** Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(211) **Vested right:** The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(212) **Viewshed:** A landscape unit seen from a key viewing area.

~~(183) **Visual Quality Objective (VQO):** 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.~~

(213) **Visually subordinate:** One of the two scenic standards applicable in the National Scenic Area. A description of the relative visibility of a development, structure or use where that development, structure or use does not noticeably contrast with the surrounding-defining landscape setting characteristics, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan), and the setting appears only slightly altered (distinctive characteristics of that setting remain dominant). As opposed to development, structures or uses that are fully screened, structures that are visually subordinate may be partially visible but would be difficult to discern to the common viewer. ~~They are not visually dominant in relation to their surroundings.~~ Visually subordinate development, structures, or uses as well as forest practices in the SMAs shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of sizescale, amountproportion, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(214) **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.

(215) **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.

(216) **Weddings:** Private wedding events, hosted by the permit holder for a fee.

(217) **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.

(218) **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 non-game 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.

- (219) **Winery or cidery:** An agricultural facility building used for processing grapes fruit into wine or cider, including laboratories, processing areas, offices, and storage areas. A winery or cidery is distinct from a wine or cider sales and/ tasting room; each of these uses must be explicitly reviewed and approved.
- (220) **Wine or cider sales/tasting room:** A facility that is accessory to a winery or cidery and used for tasting and retail sales of wine or cider, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine or cider sales and / tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless reviewed and approved under the “Commercial Events” provisions in this Article. A wine or cider sales and / tasting room is distinct from a winery or cidery; each of these uses must be explicitly reviewed and approved.
- (221) **Woody plant:** A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

## **050. Exempt Land Uses and Activities**

This Ordinance shall not apply to:

- (1) Any treaty or other rights of any Indian tribes. No new development or land uses or other actions implementing the National Scenic Area Act may interfere with the exercise of those rights.
- (2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" or treaty fishing access sites pursuant to Public Law 79-14 and Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu or treaty fishing access" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.
- (3) Rights to surface or ground water.
- (4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.
- (5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.
- (6) Laws, rules or regulations pertaining to hunting or fishing.
- (7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the off-site disposal of excavation material.
- (8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Oregon Forest Practices Act, or under county regulations that supersede that act.

**060. Prohibited Land Uses and Activities**

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

- (1) Solid waste disposal sites or sanitary landfills within the Special Management Area.
- (2) New industrial development in the National Scenic Area outside of the Urban Areas.

## **070. Uses Allowed Outright**

### **(1) All Land Use Designations Except Open Space**

- (a) The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space:
- (A) In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.
  - (B) In the Special Management Area, agricultural uses within previously disturbed and regularly worked fields or areas.
  - (C) Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and developments.
  - (D) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.
  - (E) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, roads, transportation facilities, or utility facilities.
  - (F) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (post and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.
  - (G) Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA and Forest Service natural resource inventories data or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.
  - (H) The following transportation facilities:
    - (i) Replace existing safety or protective structures, including but not

limited to guardrails, access control fences and gates, barriers, energy attenuators, safety cables, rockfall structures, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [Section 520(4)]

- (ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [Section 520(4)]
- (iii) New raised pavement markers, guideposts, object markers, inlay markers, and pavement markings and striping.
- (iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for on Uniform Traffic Control Devices (2012 or most recent version)* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.
- (v) Extensions of existing guardrails or traffic barriers less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled

“Scenic Travel Corridors.” [Section 520(4)]

- (vi) New ~~guardrails traffic barriers~~ and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [Section 520(4)] This category does not include jersey barriers.
  - (vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
  - (viii) In the Special Management Area, replacement ~~and/or expand expansion of~~ existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective. The entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
  - (ix) ~~Resurface or overlay~~ Maintenance of existing ~~railroad track and~~ paved roads, provided the activity does not (1) increase the width of a road ~~or railroad, or~~ (2) disturb the toe of adjacent embankments, slopes or cut banks, ~~or (3) change existing structures or add new structures.~~
  - (x) Apply dust abatement products to non-paved road surfaces.
  - (xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, ~~or~~ (2) disturb the toe of adjacent embankments, slopes or cut banks, ~~or (3) change existing structures or add new structures.~~
  - (xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails, ~~traffic barriers.~~ or the substructure of bridges (e.g., foundations, abutments).
- (I) The following underground utility facilities:
- (i) Replace or modify existing underground utility facilities located

inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

- (ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(J) The following aboveground and overhead utility facilities:

- (i) 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 the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors.” [Section 520(4)]
- (ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-

reflective finish.

- (iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.
- (K) Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridge line or parapet of the principal building.
- (L) The following signs:
  - (i) Election signs. Removal must be accomplished within 30 days of election day.
  - (ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.
  - (iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for on Uniform Traffic Control Devices (2012 or most recent version)*. Removal must be accomplished within 30 days of project completion.
  - (iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the General Management Area and 2 square feet in the Special Management Area.
  - (v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.
  - (vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.
  - (vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

(M) In the General Management Area, wind machines for frost control in conjunction with agricultural use.

(2) GMA and SMA Open Space

(a) The following uses may be allowed without review in GMA and SMA Open Space:

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

(B) The following transportation facilities:

(i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in ~~the Section of the Scenic Resources chapter of the Management Plan titled~~ “Scenic Travel Corridors.” [Section 520(4)]

(ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in ~~the Section of the Scenic Resources chapter of the Management Plan titled~~ “Scenic Travel Corridors.” [Section 520(4)]

(iii) New raised pavement markers, guideposts, object markers, inlay markers, and pavement markings and striping.

(iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for on Uniform Traffic Control Devices (2012 or most recent version)*

and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

- (v) Extensions of existing guardrails or traffic barriers less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in ~~the Section of the Scenic Resources chapter of the Management Plan titled~~ “Scenic Travel Corridors.” [Section 520(4)]
- (vi) New guardrails traffic barriers and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in ~~the Section of the Scenic Resources chapter of the Management Plan titled~~ “Scenic Travel Corridors.” [Section 520(4)] This category does not include jersey barriers.
- (vii) In the General Management Area, replacement and/or expand expansion of existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
- (viii) In the Special Management Area, replacement and/or expand expansion of existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.
- (ix) ~~Resurface or overlay~~ Maintenance of existing railroad track and paved roads, provided the activity does not (1) increase the width of a road or railroad or (2) disturb the toe of adjacent embankments, slopes or cut banks, ~~or (3) change existing structures or add new structures.~~
- (x) Apply dust abatement products to non-paved road surfaces.

- (xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road or (2) disturb the toe of adjacent embankments, slopes or cut banks, ~~or (3) change existing structures or add new structures.~~
- (xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations, abutments).

(C) The following underground utility facilities:

- (i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.
- (ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(D) The following aboveground and overhead utility facilities:

- (i) 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 the replacement facilities would have (1) the same location and size as the existing

facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in ~~the Section of the Scenic Resources chapter of the Management Plan titled~~ “Scenic Travel Corridors.” [Section 520(4)]

- (ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.
  - (iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.
- (E) The following signs:
- (i) Election signs. Removal must be accomplished within 30 days of election day.
  - (ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.
  - (iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual ~~for on~~ Uniform Traffic Control Devices (2012 or most recent version)*. Removal must be accomplished within 30 days of project completion.
  - (iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.
  - (v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal

must be accomplished within 30 days of the close of the event.

- (vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.
- (vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

## 075. Existing Uses and Discontinued Uses

- (1) Right to Continue Existing Uses and Structures
  - (a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.
- (2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster
  - (a) Except as provided in Section 075(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:
    - (A) The replacement structure shall ~~be used in the same manner and for the same purpose~~ have the same use as the original structure.
    - (B) The replacement structure may have a different size and/or location than the original structure. An existing mobile manufactured home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile manufactured home.
    - (C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.
    - (D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one-year time frame.
- (3) Replacement of Existing Structures Damaged or Destroyed by Disaster.
  - (a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:
    - (A) The replacement structure shall ~~be used in the same manner and for the same purpose~~ have the same use as the original structure. An existing mobile manufactured home may be replaced with a framed residence.
    - (B) The replacement structure shall be in the same location as the original

structure. An exception may be granted and the replacement structure may be sited in a different location if all the following conditions exist:

- (i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.
  - (ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.
  - (iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.
- (C) The replacement structure shall be the same size and height as the original structure, provided:
- (i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of 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.
  - (ii) The walls of the replacement structure shall be the same height as the walls of the original structure 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.
- (D) The replacement structure shall only be subject to the following scenic resources standards:
- (i) The replacement structure shall comply with the ~~scenic resources~~ guidelines regarding color and reflectivity of Section 520(2) (Part I, Chapter 1: Scenic Resources). These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.
  - (ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of

the replacement structure.

- (iii) In the General Management Area, the replacement structure shall comply with the ~~scenic resources~~ GMA guidelines regarding landscaping (Section 520(2)) (~~Part I, Chapter 1: Scenic Resources~~). These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable,<sup>5</sup> ~~provided:~~

~~(I) — Except as provided in Section 075(3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.~~

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

~~(III) — To help determine how much vegetation may be required under Section 075(3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:~~

~~(1) — The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.~~

~~(2) — The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.~~

~~(3) — Elevation drawings showing the replacement structure~~

~~and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.~~

~~(IV) The height of any new trees shall not be required to exceed 5 feet.~~

~~(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.~~

(iv) In the Special Management Areas, the replacement structure shall comply with the ~~scenic resources~~ SMA guidelines regarding landscaping (Section 530(2)) (Part I, Chapter 1: Scenic Resources). These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

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

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

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

(E) The replacement structure shall be subject to Section 075(2)(a)(A), (B), and (C) above if it would not comply with Section 075(3)(a)(B) and (C).

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

(4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant

to Article 75.

- ~~(A) — Expansion of Existing Commercial and Multifamily Residential Uses: In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.~~
- ~~(B) — Expansion of Existing Industrial Uses in the GMA: Existing industrial uses in the GMA may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site shall be prohibited.~~
- ~~(CA) — Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this Section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.~~
- ~~(D) — Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development or production of mineral resources may continue unless the Planning Department determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:
  - ~~(i) — The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.~~
  - ~~(ii) — The site has not maintained a required state permit.~~
  - ~~(iii) — The site has not operated legally within 5 years before October 15, 1991.~~~~
- ~~(EB) — Existing Development or Production of Mineral Resources in the SMAs: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMAs may continue if both of the following conditions exist:
  - (i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMAs.~~

- (ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

(5) Discontinuance of Existing Uses and Structures

(a) Except as provided in ~~Section 075(3)(a) and (3)(a)(F) Guidelines 3 and 3.F~~ above, any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(A) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(B) Change in Use: An existing use or structure shall become discontinued if the use or uses of the structure changes.

(6) Discontinued Uses and Structures:

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

**080. Application for Review and Approval**

- (1) Prior to initiating any use or development that requires review and approval by the Director, an application shall be completed pursuant to this Section ~~080~~. The Director shall accept and review the application pursuant to Sections 100 through 145 for consistency with appropriate guidelines. Review of a proposed use or development shall commence upon the acceptance of an complete application by the Director. Incomplete applications shall not be reviewed. The Director will charge a fee for review of applications.
- (2) Standard application forms shall be available at county planning office.
- (3) Applications for the review and approval of a proposed use or development shall provide the following information:
  - (a) The applicant's name, ~~address and telephone number~~ and contact information;
  - (b) The landowner's name, ~~address and telephone number~~ and contact information (if different from applicant's);
  - ~~(c) The county in which the proposed use or development would be located;~~
  - ~~(d)~~ (c) The ~~section, quarter section,~~ township, and range, and section in which the proposed development would be located;
  - ~~(e)~~ (d) The street address of the proposed use or development;
  - ~~(f)~~ (e) The tax lot number(s) and size in acres of the parcel(s) involved;
  - ~~(g)~~ (f) A description of the current land use for the parcel(s) involved ~~and adjoining lands~~;
  - ~~(h)~~ (g) A written description of the proposed use or development, including details on the height, shape, exterior color(s), ~~and~~ construction materials of the proposed structures, exterior lighting, and landscaping details (type of plants used; number, size and location of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).
  - ~~(i)~~ (h) A list of Key Viewing Areas from which the proposed use would be visible.
  - ~~(j)~~ (i) A map of the project area. ~~The map shall be~~ drawn to scale. The scale of the map shall be large enough to allow the Director to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. ~~The A~~ map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail should be acceptable in most instances. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can

show only those portions of the parcel affected by the proposed use. Site plans with alternative sites or building envelopes are not sufficient. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

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

(L) Building setbacks from property lines, streets, and natural features, such as streams and wetlands.

~~(k)~~ (j) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Section 600(2).

~~(k)~~ (k) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

~~(m)~~ (l) The signature of the applicant and property owner or a signed statement from the property owner indicating that he is aware of the application being made on his/her property.

~~(m)~~ (m) The signature of the property owner on a statement that authorizes the Director or his/her designee reasonable access to the site in order to evaluate the application.

~~(n)~~ (n) Elevation drawings, which 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.

(o) Building floor plans (drawn to scale) that show interior building layout and dimensions of the individual rooms or spaces, including labels describing their existing or intended use.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in this Ordinance or by the Director. Furthermore, all proposed uses within the GMA and SMA located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat and sensitive plant sites require additional site plan information.

~~(a) In the general management All buildings visible from Viewing Areas, pursuant to Section 520(2)(n).~~

~~(a) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to Section 520(1)(f), 520(2)(e) and 520 (2bb).~~

~~(ba) A grading plan that complies with the requirements of Section 520(2)(z) is required for the~~ The following applications for structural development shall include a grading plan:

~~(A) In the General Management Area, all applications for structural development~~ Applications- involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan; except applications for trails in the SMAs.

~~(B) In the General Management Area, all proposed structural development on sites visible from key viewing areas and~~ Applications involving more than 200 cubic yards of grading, regardless of slope; and on sites visible from key viewing areas. This plan shall be reviewed by the local government for compliance with key viewing area policies.

~~(C) In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan.~~ Grading plans shall include the following:

(1) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(a) Existing and proposed final grades.

(b) Location of all areas to be graded, with cut banks and fill slopes delineated.

(c) Estimated dimensions of graded areas.

(2) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(a) Its purpose.

(b) An estimate of the total volume of material to be moved.

(c) The height of all cut banks and fill slopes.

(d) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

(e) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(f) A description of any other interim or permanent erosion control measures to be used.

~~(db)~~ In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to [Section 520\(4\)\(d\)](#).

~~(ec)~~ Large-scale uses as defined by guidelines in [Section 540\(1\)\(c\)\(CE\)](#) shall include reconnaissance and or historic survey reports, pursuant to [Section 540\(1\)\(c\)\(FH\)](#), [\(GI\)](#) and [\(HJ\)](#).

~~(fd)~~ Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 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 50 years old or older, pursuant to [Section 540\(1\)\(c\)\(HJ\)](#)(iii).

~~(ge)~~ In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fish-bearing tributaries, pursuant to [Section 150\(3\)\(a\)\(A\)](#).

- (~~hf~~) In the General Management Area, any review use in a ~~wetland water resource~~ or ~~within a wetland water resource~~ buffer zone, pursuant to Section 560(~~1~~)(~~b~~).
- (~~i~~) ~~In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 570(1)(b).~~
- (j) In the General Management Area, any review use within 1000 feet of a Priority Habitat or sensitive wildlife ~~area or~~ site, pursuant to Section 580(1)(b). Large-scale uses as defined by Section 580(~~34~~) shall also include field survey information, pursuant to Section 580(~~34~~)(e).
- (k) In the General Management Area, any review use within 1,000 feet of a sensitive plant, pursuant to Section 590(~~b~~). Large-scale uses as defined by Section 590(~~34~~) shall also include field survey information, pursuant to Section 590(~~34~~)(e).
- (l) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 190(1)(h), and if applicable, Section 190(1)(i). Also, agricultural labor housing per Section 190(1)(o).
- (m) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 190(1)(~~q~~).
- (n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 190(1)(k).
- (o) In the Special Management Area, on lands designated Agriculture, Forest or Public Recreation, a single-family dwelling necessary and accessory to agricultural use, pursuant to Section 190(2)(c).
- (p) In the Special Management Area, on lands designated Agriculture, Forest or Public Recreation, farm labor housing pursuant to Section 190(2)(d).
- (~~q~~) ~~In the General Management Area, on lands designated Large Woodland, a single-family dwelling, pursuant to Section 270(1)(a).~~
- (~~rq~~) In the Special Management Area, on lands designated Forest, Agriculture or Public Recreation, a single-family dwelling, pursuant to Section 270(2)(~~kj~~).
- (~~sr~~) In the Special Management Area, on lands designated Forest, Agriculture, Residential or Public Recreation, forest practices, pursuant to Section 270(2)(~~zy~~).
- (~~ts~~) In the General Management Area, on lands designated Small Woodland, a single-

family dwelling pursuant to Section 270(1)(~~ba~~).

(~~uf~~) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Section 190(1)(h).

(~~vu~~) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to Section 270(1)(~~sq~~).

(~~wv~~) Other uses as deemed necessary by the Director. However, the County's Burden of Proof criteria does not apply to lands in the NSA.

~~(x) In the Special Management Area on lands designated Open Space, any use or development, pursuant to Section 340(5).~~

- (5) Completed application forms shall be submitted directly to the Hood River County Planning and Community Development office.

**090. Pre-Application Conference**

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this Ordinance, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

## **100. Acceptance of Application**

Within ~~14~~ 30-days of the receipt of an application, the Director shall review the application for completeness and adequacy. ~~The Director shall accept a complete and adequate application within 14 days of receipt of the application.~~

- (1) ~~No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.~~

~~If an application is determined to be incomplete, the Planning Department shall notify the applicant in writing, within 30-days of the date the application was received, to specify exactly what information is missing, and to allow the applicant up to 180-days from the date the application was initially received to submit a written response. The application shall be deemed complete for the purpose of initiating the land use action process when the Planning Department receives, in writing, one of the following:~~

- ~~(i) All of the missing information;~~
- ~~(ii) Some of the missing information and written notice from the applicant that no other information will be provided; or~~
- ~~(iii) Written notice from the applicant that none of the missing information will be provided.~~

~~On the 181st day after first being received by the Planning Department, an incomplete application shall be void, if the applicant was notified of the missing information and failed to respond in writing as provided in Subsection (1) above with no opportunity for a refund of the application fee.~~

- (2) ~~The County shall take final action on all application within 150 days after the application is deemed complete.~~

- (3) ~~The statutory time limit for making a final local decision (120/150 days) may be extended, upon written request from the applicant, as long as the total of all such extensions does not exceed 215 days.~~

- ~~(2) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Section 640. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.~~

- ~~(3) No application for a proposed use which is explicitly prohibited by Section 060 shall be accepted.~~

- ~~(a) The application shall be returned to the applicant.~~
  - ~~(b) A letter, signed by the Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.~~
  - ~~(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to provisions in the Hood River County Ordinance.~~
- (4) Filing fee for applications shall be as specified in the most current adopted fee schedule (available at the County Planning Department).

## 110. Notice of Development Review

- (1) ~~Within 7 days of the acceptance of an application,~~ The Director shall issue notice of a proposed development review ~~after an application is deemed complete.~~ The notice of application shall ~~provide~~ include the following information:
  - (a) The name of the applicant ~~and property owner (if different);~~
  - (b) The general and specific location of the subject property;
  - (c) A brief description of the proposed action;
  - (d) ~~The~~ An approximate deadline for rendering a decision; and
  - (e) The deadline for filing comments on the proposed action.
- (2) The notice shall state that the application and supporting documents are available for inspection at the County Planning Department during normal working hours.
- ~~(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~
- (43) The notice shall be mailed to:
  - (a) The Forest Service, the Gorge Commission, ~~the state, Indian Tribes and tribal governments, and the applicable county and/or city;~~ and
  - (b) Owners of property within a radius of the subject parcel(s) as determined by Section 640; and
  - (c) Other agencies and interested parties ~~which request a notice which-~~ that the Director determines should be notified.
  - ~~(d) Parties who pay the County an annual subscription fee and specifically request to receive application notices within the National Scenic Area.~~
  - ~~(d) See Section 640, Notice of Application Requirements.~~
- ~~(5) The notice shall be posted at the County Planning and applicable City Planning offices and shall be made available for posting to the Commission and Forest Service office(s).~~
- (54) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.

| (75) A copy of the notice shall be filed in the records of the ~~Commission~~ Planning Department.

## **120. Comment Period**

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Director relative to the consistency of the proposed actions with the guidelines of this Ordinance.

- (1) Based on comments received and other applicable information, the Planning Director shall determine if a wildlife management plan pursuant to Section 580(~~56~~), or a rare plant protection and rehabilitation plan pursuant to Section 590(~~56~~) is required.
- (2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Director shall forward the survey to the State Historic Preservation Officer, and Indian Tribes pursuant to Sections ~~540(1)(b) and (2)(b)(A)~~.
- (3) The State Historic Preservation Officers and the four Indian tribal governments shall have 30 days to submit comments on the cultural resources survey. Based on the survey results, comments received, and other applicable information, the Planning Director shall determine if an evaluation of significance pursuant to Section 540(3) is required.

**130. Decision of the Director**

- (1) In making a decision on a proposed use or development the Director shall:
  - (a) Consult with the applicant and such agencies as the Director deems appropriate;
  - (b) Consider information submitted by the applicant and all other relevant information available;
  - (c) Consider all comments submitted pursuant to Section 120; and
  - ~~(d) Solicit and consider the comments of the Forest Service.~~
- (2) The Director shall approve a proposed use or development only if it is consistent with this Ordinance. In approving a proposed development action, the Director may impose conditions as necessary to ensure consistency with the guidelines of this Ordinance.
- ~~(3) The Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with this Ordinance within 72 days after acceptance of the application except in one or more of the following situations:
  - ~~(a) The applicant consents to an extension of time.~~
  - ~~(b) The Director determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.~~
  - ~~(c) Unforeseen circumstances including, but not limited to, weather, illness, etc.~~~~
- (43) The Director shall send a copy of the decision to the applicant, the Gorge Commission, the Forest Service, ~~the state, the Indian Tribes, the applicable city parties who pay the County an annual subscription fee,~~ and each person who submitted comments under Section 120. The decision shall set forth the rights of appeal under the Hood River County Zoning Ordinance.
- (5) The Director's decision shall be final unless a Notice of Appeal is filed in accordance with Section 145.

### **135. Expiration of Approvals**

- (1) **Notice Not Required:** Expiration of any land use approval issued pursuant to this Management Plan shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.
- (2) **Land Use Approvals without Structures:** Any land use approval issued pursuant to this Management Plan for a use or development that does not include a structure shall expire two years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the ~~county recorder or auditor~~ County Department of Records and Assessment.
- (3) **Land Use Approvals with Structures:** Any land use approval issued pursuant to this Management Plan for a use or development that includes a structure shall expire as follows:
  - (a) When construction has not commenced within two years of the date the land use approval was granted, or
  - (b) When the structure has not been completed within two years of the date of commencement of construction.
- (4) **Commencement of Construction:** As used in subsection 3(a) above, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
- (5) **Completion of Structure:** As used in subsection 3(b) above, completion of the structure shall mean (1) completion of the exterior surface(s) of the structure and (2) compliance with all conditions of approval in the land use approval.
- (6) **Extension of Validity of Land Use Approvals:** A request for extension of the time frames in subsections 2, 3(a) or 3(b), above, shall be submitted in writing before the applicable expiration date.
  - (a) A reviewing agency may grant one 12-month extension to the validity of a land use approval if it determines that events beyond the control of the applicant prevented commencement of the use or development (applicable to section 2 above) or commencement of construction (applicable to subsection 3(a) above) within the original two-year time frame.
  - (b) An agency may also grant one 12-month extension if it determines that events

beyond the control of the applicant prevented completion of the structure (applicable to subsection 3(b) above) within the original two-year time frame.

- (c) A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.
  - (d) Approval or denial of a request for extension shall be considered an administrative decision.
- (7) Vested Rights: The laws of the state of Oregon concerning vested rights shall not apply in the National Scenic Area. A person has a vested right for as long as the land use approval does not expire.

**140. Changes or Alterations to an Approved Action**

Any change or alteration to a development action approved by the Board of County Commissioners, Planning Commission or Director pursuant to this Ordinance shall be processed as new action, except that the Director may approve minor changes or alterations deemed to be consistent with this Ordinance and the findings and conclusions for the original action.

## **145. Appeal Process**

- (1) The Planning Director's decision is appealable by a qualifying party of record to the Hood River County Planning Commission within 15 days of the date of issuing a decision pursuant to applicable provisions within the following Sections of the Hood River County Zoning Ordinance: Article 60 - Administrative Procedures; Article 63 - Conduct of Public Hearings; and Article 72 - Planning Director's Review Procedures.
- (2) The Hood River County Planning Commission's Decision is appealable by a qualifying party of record to the Hood River Board of County Commissioners within 15 days of the date of issuing a decision pursuant to provisions in Article 61 - Review by the Board of the Hood River County Zoning Ordinance.
- (3) The Hood River County Board of Commissioners' decision is appealable by a qualifying party of record to the Columbia River Gorge Commission within 30 days of issuing a decision pursuant to provisions in Commission Rule, Chapter 350, Division 60.

**150. General Guidelines**

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):

(1) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for ~~or are suitable for~~ agricultural use:

(a) Setback Guidelines

Type of Agriculture	Type of Buffer (size in feet)		
	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchard	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) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 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 15 feet.

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

(e) The necessary berming ~~and~~/or planting must be completed during the first phase of

development and maintained in good condition.

- (f) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.
- (g) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 150(2) have been satisfied.

(2) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

- (a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:
  - (A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and
  - (B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.
- (b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:
  - (A) The land use designation otherwise authorizes a residence on the tract;
  - (B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;
  - (C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.; and
  - (D) The variance shall not be used to permit an addition to a building (including, but not limited to, decks and stairs), when the addition would be within the setback or buffer, except where the building is wholly within the setback or buffer, in which case, the addition may only be permitted on the portion of the building that does not encroach any further into the required setback. However, this standard shall not apply to road or property line setback requirements, which are not regulated by the Management Plan and, therefore, may be allowed subject to the requirements of Article 66 (Variances) of the County Zoning Ordinance.

- (c) The Director may grant a variance to the setback and buffer requirements in Section 610, upon a finding that the following conditions exist:
  - (A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.
  - (B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.
  - (C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.
  - (D) The variance is the minimum necessary to accommodate the use.
- (d) The Director may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:
  - (A) Demand and use levels for the proposed activity~~(s)~~; or activities particularly in the area where the site is proposed, are high and expected to remain so ~~and~~/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data ~~from Scenic Area recreation demand studies~~ the National Visitor Use Monitoring Program shall be relied upon to meet this criterion in the absence of current applicable studies.
  - (B) The proposed use is dependent on resources present at the site.
  - (C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.
  - (D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.
  - (E) Through site design and~~or~~ mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.
  - (F) Through site design and~~or~~ mitigation measures, the proposed use can be implemented without affecting or modifying treaty rights.
- (3) Indian Tribal Treaty Rights and Consultation. The following provisions apply to new uses in the GMA.

(a) Tribal Government Notice

(A) ~~NP~~ Proposed new review uses and development located in, ~~or~~ providing recreation river access to, or on parcels that adjoin the Columbia River or its fish-bearing tributaries shall include the following supplemental information:

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

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

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

~~(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.~~

~~(III) — List tribal ceremonial fishing seasons in the project vicinity.~~

~~(IV) — Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.~~

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

~~(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent on-site monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations. At the same time that the county sends notice, the county shall offer to meet with or consult with the tribal government prior to making a decision on the proposed development. Offers to meet or consult with a tribal government shall include phone calls or electronic communication to~~

tribal government chairs, chief administrative officers, and natural and cultural resource staff. The county shall make more than one attempt to contact a tribal government.

(C) ~~Indian~~ Tribal governments shall have 20 30 calendar days from the date a notice is mailed to submit substantive written comments to the Director. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses. request that the county consult with the tribal government regarding potential effects or modifications to treaty or other rights of the tribe. All substantive comments, recommendations, or concerns expressed by tribal governments during the consultation meeting shall be summarized by the county, subject to the following confidentiality standards:

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

(ii) The confidential information shall be submitted to the Gorge Commission for review in the event of an appeal, and shall remain confidential and not subject to disclosure to any person or party other than the applicant, the applicant's representative, the appellant, the appellants representative or the necessary Gorge Commission staff and Gorge Commission members unless the tribal government expressly authorizes disclosure.

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

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

~~(b) Tribal Government Consultation~~

~~(A) When substantive written comments are submitted to the Director in a timely manner, the project applicant shall offer to meet with the Director and the Indian~~

~~tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government. Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.~~

(b) Tribal Government Consultation

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

~~(C) The Director shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Director.~~

(c) Conclusion of the Treaty Rights Protection Process

~~(A) The Director shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe. The final decision shall integrate findings of fact that address the county's effort to meet with or consult with the tribal governments and any revisions and treaty rights protection plan resolving the tribal governments' any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the local government must justify how it reached an opposing conclusion.~~

(B) The treaty rights protection process may conclude if the Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(C) A finding by the Director that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses **adversely** affect or modify treaty or other tribal rights.

(4) If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between

the building/structure and the parcel.

~~(5) The following provisions apply to new uses in the SMA:~~

~~(a) The Forest Service shall consult with the Indian tribal governments to determine the effect of all new development or uses in the SMA on treaty rights and shall notify the County or reviewing agency of the determination.~~

~~(b) New uses and development shall not affect or modify any treaty or other rights of the Indian~~

~~(c) New developments or land use shall protect access to usual and accustomed tribal or Indian fishing sites or stations protected under treaty rights, and as established by court interpretations of those treaties.~~

~~(d) Indian tribal governments shall be invited to participate in the planning of public recreation developments that could affect treaty rights.~~

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

A. The site plan requirements for such proposals pursuant to this chapter have been met.

B. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc., associated with the use would be visually subordinate as visible from any key viewing areas.

C. A reclamation plan to restore the site to a natural appearance that blends with and emulates distinctive characteristics of the designated landscape setting to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Subsections 9 and 10 in this section.

D. A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

(1) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.

(2) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

- (3) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.
  - (4) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.
  - (5) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.
  - (6) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc., and appropriate time frames to achieve such results, including winter screening considerations.
- (6) Unless addressed by subsection 5 of this section, exploration, development (extraction and excavation), and production of mineral resources may be allowed upon a demonstration that:
- A. The site plan requirements for such proposals pursuant to this chapter have been met.
  - B. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.
  - C. A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Guidelines 10 and 11 of the “Overall Scenic Provisions” section of this chapter.
- (7) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 4 miles from the nearest key viewing area from which it is visible shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.
- (8) An interim time period to achieve compliance with full screening requirements for new quarries located less than 4 miles from the nearest key viewing area from which it is visible shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

- (9) For all exploration, development (extraction and excavation), production of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates distinctive characteristics inherent to its landscape setting to the maximum extent practicable. At a minimum, such reclamation plans shall include:
- A. 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-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 catch 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.
  - B. Cross-sectional drawings of the site showing pre-mining and post-mining grades.
  - C. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
  - D. Description of drainage/erosion control features to be employed for the duration of the use.
  - 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.
  - F. If the site is visible from key viewing areas, the applicant shall also submit perspective drawings of the proposed mining areas as visible from applicable key viewing areas.
- (10) 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 reviewing agency may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction. The state agency shall have 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:
- A. Whether the proposed mining is subject to state reclamation permit requirements;
  - 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

C. For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

## 152. Uses and Structures Allowed in Various Land Use Designations

### A. Agricultural Buildings

- (1) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.
- (2) To satisfy ~~SubSection 152(A)~~(1) above, applicants shall submit the following information with their land use application:
  - (a) A description of the size and characteristics of current agricultural use.
  - (b) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).
  - (c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

### B. Temporary Use – Hardship Dwelling

- (1) A permit for the temporary placement of a ~~mobile manufactured home, a tiny house on a trailer, or other similar structures~~ may be granted under the following circumstances:
  - (a) A family hardship exists where conditions relate to the necessary care for a family member ~~of the family occupying the principal dwelling and~~ where medical conditions relate to the infirm or aged.
  - (b) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.
  - (c) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural, and recreation resources.
  - (d) The structure does not require a permanent foundation.
- (2) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this Section and any other conditions of approval.
- (3) Upon expiration of the permit or cessation of the hardship, whichever comes first, the ~~mobile home~~ hardship dwelling shall be removed within 30 days.

- (4) A new permit may be renewed upon a demonstration that the family hardship continues to exist.

### C. Sewer and Water Services

- (1) Sewer lines may be extended from an Urban Area into a rural area to serve:
  - (a) Areas with a documented health hazard.
  - (b) Recreation uses open to the public, only upon a demonstration by the local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an Urban Area boundary.
- (2) New uses authorized in Article 75 may hook up to existing sewer and water lines in rural areas.

### D. Docks and Boathouses

- (1) New, private docks and boathouses serving only one family and one property ~~shall~~ may be allowed, up to 120 square feet in size.
- (2) New, private docks and boathouses serving more than one family and property ~~shall~~ may be allowed, up to 200 square feet in size.
- (3) Public docks open and available for public use ~~shall~~ may be allowed.
- (4) Boathouses may be allowed under ~~subsections 152(D)~~(1) and (2) above only when accessory to a dwelling and associated with a navigable river or lake.

### E. Home Occupations ~~and Cottage Industries~~

- (1) Home occupations ~~and cottage industries~~ may be established as authorized in specified land use designations consistent with the following ~~guidelines~~ conditions:
  - (a) ~~A home occupation may~~ May employ ~~only the~~ residents of the home ~~and up to three outside employees.~~
  - ~~(b) — A cottage industry may employ up to three outside employees.~~
  - (b) No more than 25 percent of the total actual living space of the dwelling may be used for the home occupation ~~or cottage industry.~~
  - (c) No more than 500 square feet of an accessory structure may be used for a home

occupation ~~or cottage industry~~.

- (d) There shall be no outside, visible evidence of the home occupation ~~or cottage industry~~, including outside storage.
- (e) Exterior structural alterations to the residence for the home occupation ~~or cottage industry~~ shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation ~~or cottage industry~~.
- (f) No retail sales may occur on the premises, ~~except incidental sales at lodging establishments authorized in this chapter~~.
- (g) One non-animated, non-illuminated sign, not exceeding 2 square feet in area, may be permitted on the subject structure or within the yard containing the home occupation ~~or cottage industry~~.
- (h) Parking not associated with residential use shall be screened so it is not visible from key viewing areas.
- (i) In the General Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 152 (E) and (F).
- ~~(j) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Section 152 (E) and (F), except Section 152 (F)(1)(e).~~

#### F. Overnight Accommodations

- (1) Overnight accommodations may be established in a legal single-family dwelling, in the 5-acre and 10-acre Rural Residential land use designation, consistent with the following conditions:
  - (a) The owner of the subject parcel may rent the dwelling for up to 90 room nights per year.
  - (b) Parking areas shall be screened so they are not visible from key viewing areas.
  - (c) The use is incidental and subordinate to the primary use of the property.
  - (d) The dwelling must be the permanent residence of the owner and occupied by the owner during rental. To demonstrate proof of residency, the owner shall provide a copy of their Federal and/or State income tax return from the most recent tax year (page 1 only with financial data redacted) and at least one of the following documents:

- (i) Current Oregon voter registration
- (ii) Current Oregon driver's license
- (iii) Hood River County Community Identification Card

(e) Commercial events are not permitted at overnight accommodations.

(f) The overnight accommodation may employ up to three employees other than the residents of the dwelling.

(g) Land use approvals for overnight accommodations shall be valid for no more than two years. Landowners must reapply to renew their permit for the use after a land use approval expires, and demonstrating past compliance with conditions of approval through financial and other records. Permits will not be renewed if there have been past violations, including failure to file a timely permit renewal.

(h) The application for the proposed overnight accommodation shall include the following information:

(i) Floor Plan – A floor plan showing the interior layout of the dwelling, including the number of bedrooms proposed for rent.

(ii) Property Management Plan – A property management plan demonstrating how the overnight accommodation will be managed and how impacts to neighboring properties will be minimized; specifically, nuisances, parking and garbage. The property management plan shall also include the name, address and telephone number of local points of contact available to respond immediately to complaints and promptly remedy any violation of these standards.

(iii) Environmental Health – Issue Authorization Notice to use Existing Septic System per OAR 340-071-0205. Review of Drinking Water source per OAR 333-061 and Travelers' Accommodation Licensing per ORS 446.320.

(iv) Assessor – Proof County Assessor has been notified.

(v) Proof of Insurance – Include certification of insurance coverage.

(vi) Certify Accuracy – Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.

(vii) Other – Other information as requested by the County.

(i) The proposed overnight accommodation shall comply with the following standards:

(i) Accessory Buildings – Overnight accommodations shall be operated within the primary dwelling of the subject property only. Outbuildings, including agricultural buildings, farm worker housing, accessory dwelling units, tiny homes, and other lawful dwellings on the property, shall not be used or converted for use as a overnight accommodation. Additionally, no recreational vehicle, travel trailer, tent, parked vehicle, or other temporary shelter shall be used and/or occupied in conjunction with the overnight accommodation.

(ii) Appearance and Identification – The exterior of the building shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road.

(iii) Occupancy Limits – The maximum occupancy for each overnight accommodation unit shall be calculated on the basis of two (2) persons per bedroom, plus two additional overnight occupants.

(iv) Parking – The overnight accommodation shall have one onsite parking space per each bedroom unit with a minimum of two parking spaces required. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage shall be submitted to show the garage is available for parking. The garage shall continually be available for guest parking as long as the overnight accommodation permit is valid. All required parking spaces shall be provided on the parcel where the overnight accommodation is operated.

(v) Access – Road access to the overnight accommodation shall meet minimum County and/or local fire district road standards and shall be adequately maintained and remain clear of obstructions, including illegally parked cars, recreational vehicles, boats, trailers, junk, etc., to ensure the unimpeded passage of emergency vehicles and other vehicular traffic.

(vi) Nuisances and Garbage – The overnight accommodation shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including, but not limited to: loud music and noises, excessive traffic, junk/debris accumulation in the yards, garbage removal,

trespassing, or excess vehicles, boats or recreational vehicles parked on the property or along adjacent roadways. Said provisions shall be documented in the Property Management Plan.

(vii) Pets shall be secured at all times while on the property and nuisance barking by pets is prohibited.

(viii) Signage – No on or off-premise signage advertising the overnight accommodation is permitted.

(ix) License and Permit Requirements – The overnight accommodation permit and permit number issued by Hood River County shall be prominently and permanently displayed inside the unit near the front entrance of the rental and shall list the name, address and phone numbers of the property owner and/or operator, and, if applicable, the designated local contact. The permit number shall also be displayed in all advertising.

(x) Federal, State & Local Laws – The overnight accommodation shall meet all applicable State and local health, safety laws and building codes.

(xi) Transient Room Tax – Proof of registration for County TRT certification shall be provided to County Planning prior to operating an overnight accommodation or within 90 days of issuance of a final overnight accommodation permit for those already in operation.

(xii) Building Safety – Proof of satisfactory completion of an inspection performed by the Hood River County Building Department shall be provided to County Planning prior to operating an overnight accommodation or within 90 days of issuance of a final overnight accommodation permit for those already in operation.

(xiii) Alteration or Expansion – No permitted overnight accommodation may be altered or expanded to accommodate additional guests, unless otherwise permitted through a separate application.

(xiv) The overnight accommodation permit is not transferable to a new owner or operator. If the property is transferred or sold, the new owner will need to re-apply for an overnight accommodation permit.

(xv) The overnight accommodation permit does not relieve the owner of

the obligation to pay County Transient Room Taxes (TRT) and Personal Property tax. Non-compliance will result in revocation of the permit.

(xvi) The Planning Director or designee may visit and inspect the site of an overnight accommodation on a prescribed schedule to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice and other procedural safeguards as necessary.

(xvii) If the terms of an approved overnight accommodation permit are not met, the permit may be revoked and the owner subject to enforcement and Class I or Class II penalties per Article 1 or any amendments thereto.

(xviii) The County will monitor and enforce unpermitted overnight accommodations through periodic review and audits. An unpermitted overnight accommodation is subject to enforcement, and Class I or Class II penalties per Article 1, Chapter 1.08 (Code Enforcement) of this Ordinance, and Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code.

(j) All neighbor complaints received concerning an approved overnight accommodation shall follow the process outlined in Section 53.64 (Short-Term Rental Compliance) of this Ordinance.

(k) A permit for an approved overnight accommodation may be revoked subject to the requirements of Section 53.68 (Short-Term Rental Revocation) of this Ordinance.

## **G. Bed and Breakfast Inns**

- (1) Bed and breakfast inns may be established as authorized in specified land use designations, consistent with the following conditions:
  - (a) The use is consistent with the definition of Bed and Breakfast inn, Section 040(1422).
  - (b) Guests may not occupy a facility for more than 14 consecutive days.
  - (c) One non-animated, non-illuminated sign, not exceeding 4 square feet in area, may be permitted on the structure or within the yard containing the structure.
  - (d) Parking areas shall be screened so they are not visible from key viewing areas.
  - (e) In the SMA, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

## H. Small-Scale Fishing Support and Fish Processing Operations

- (1) Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA Small-Scale Agriculture, subject to the following conditions:
  - (a) The operation shall comply with Section 150(4). In addition, if the operation will be located on land designated Small Woodland, then it shall also comply with Section 300, and Section 310.
  - (b) The following fishing support activities may be allowed: maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used in the family-based commercial fishing business; and garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based commercial fishing business.
  - (c) The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.
  - (d) The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia River.
  - (e) The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate in the fishing support and fish processing operation.
  - (f) The operation may only employ residents of the dwelling and up to three outside employees.
  - (g) No more than 25 percent of the total actual living space of the dwelling may be used for the fishing support and fish processing operation.
  - (h) The operation may take place in an existing or new lawful accessory building or an existing agricultural building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish processing operation shall be considered an accessory building. An existing agricultural building shall not be expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and fish processing operation.

- (i) An accessory building used in the fishing support and fish processing operation may be allowed up to 2,500 square feet.
- (j) Docks may be allowed as follows:
  - (A) One dock serving a parcel with an approved fishing support and fish processing operation may be allowed up to 500 square feet in size.
  - (B) For multiple contiguous parcels each with approved fishing support and fish processing operation, the area of the docks authorized in Section 152(D) above may be combined into one dock, provided the total size of the dock shall not exceed 2,000 square feet.
- (k) There shall be no outside visible evidence of the fishing support and fish processing operation, including storage, other than boats and docks.
- (l) No retail sales may occur on the parcel.
- (m) The operation shall only support and process fish caught by residents of the dwelling and up to three outside employees.
- (n) Before beginning the operation, applicants shall demonstrate that they have obtained and complied with federal, state and/or local water quality and wastewater permits.

## I. Resource Enhancement Projects

- (1) Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project. Applicants shall seek technical assistance from federal, state or county technical experts for assistance in designing voluntary wetland, stream, habitat, plant, and scenic enhancement projects.
- (2) In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry enhancement projects shall comply with the following guidelines:
  - (a) Application Requirements. In addition to other applicable requirements, land use applications for quarry enhancement projects shall include perspective drawings of the site as seen visible from key viewing areas as specified in Section ~~520(2)(e) 150(9)(F)~~ and a reclamation plan that provides at a minimum the following: all the applicable information specified in Section 520(1)(f)(A) through (E), except: (1) the words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-mining," respectively, and (2) the appropriate state agency or local government does not have to approve the reclamation plan.

- (i) 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-foot contour intervals or less, showing pre-reclamation existing grades and post-reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch 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.
  - (ii) Cross-sectional drawings of the site showing pre-reclamation and post-reclamation grades.
  - (iii) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
  - (iv) Description of drainage/erosion control features to be employed for the duration of the use.
  - (ii)(v) 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.
- (b) Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.
  - (c) Natural Resource Standard. Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.
  - (d) Time Frames. The following time frames shall apply to quarry enhancement projects:
    - (A) All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.
    - (B) All landscaping shall be planted within one (1) year of the date an applicant completes the grading.
    - (C) An applicant may request one one-year extension to the one year grading time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after grading has commenced and before the one year grading time frame has expired.

(D) An applicant may also request one six-month extension to the one (1) year landscaping time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after landscaping has commenced and before the one-year landscaping time frame has expired.

(3) Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a written plan consistent with the guidelines under “Wetlands Compensation Plans” (Section 560(10)).

(4) Enhancement of streams, ponds, lakes, and riparian areas not associated with any other development proposal may be allowed, if such efforts comply with the water resource provisions in this Management Plan. Enhancement efforts shall be conducted pursuant to a written plan consistent with the guidelines under “Water Resources Mitigation Plans” (Section 560(11)).

(3)(5) In the SMAs, enhancement of wetlands, streams, ponds, lakes, and riparian areas not associated with any other project proposal may be allowed, if such efforts comply with the wetlands, streams, ponds, lakes, and riparian areas provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a written plan, consistent with the guidelines described in “SMA Policies: Water Resources” (Section 600(2)).

## **J. Disposal Sites for Spoil Materials from Public Road Maintenance Activities**

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

(a) A reclamation plan that provides at a minimum the following all the applicable information: specified in Section 520(1)(f)(A) through (E), except: (1) the words “pre-disposal” and “post-disposal” should replace the words “pre-mining” and “post-mining” and (2) the appropriate state agency or local government does not have to approve the reclamation plan.

(i) 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-foot contour intervals or less, showing pre-reclamation existing grades and post-reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch 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.

(ii) Cross-sectional drawings of the site showing pre- reclamation and post-reclamation grades.

(iii) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(iv) Description of drainage/erosion control features to be employed for the duration of the use.

(v) 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.

(b) Perspective drawings of the site as seen visible from key viewing areas as specified in Section ~~520(2)(e)~~ 150(9)(F).

(c) Cultural resource reconnaissance and historic surveys, as required by Section 540(1)(c) ~~(A) and (B)~~ and (C), respectively. Disposal sites shall be considered a “large-scale use” according to Section 540(1)(c) ~~(C)~~ (E).

(d) Field surveys to identify sensitive wildlife areas or sites and sensitive rare plants as described in Section 580 ~~(3)~~ (4) and Section 590 ~~(3)~~ (4).

(2) Siting Standard. The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the disposal site outside the National Scenic Area or inside an Urban Area. At a minimum, the applicant shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites located both outside the National Scenic Area and inside an Urban Area.

(3) Scenic Resource Standards. Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and exploration, development (extraction and excavation), and production of mineral resources production and/or development of mineral resources in the GMA, including, but not limited to:

(a) Sites more than 3 4 miles from the nearest key viewing area shall be visually subordinate as seen visible from any key viewing area, according to Section ~~520(2)(ee)~~ 150(5).

(A) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific

topographic and visual conditions, but shall not exceed 3 years beyond the start of on-the-ground activities.

- (b) Sites less than ~~3~~ 4 miles from the nearest key viewing area shall be fully screened from any key viewing area, according to Section ~~520(2)(dd)~~ 150(5).
  - (A) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the start of on-the-ground activities. Disposal activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).
- (c) Reclamation plans shall restore the site to a natural appearance that blends with and emulates surrounding natural landforms and vegetation patterns characteristic to the landscape setting to the maximum extent practicable.

## K. Commercial Events

- (1) Commercial events include weddings, receptions, indoor concerts, farm dinners, or events similar in size and activity and must be parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.
- (2) Commercial events may be allowed in the GMA, except on lands designated Open Space or Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:
  - (a) The use must be in conjunction with an established winery/cidery or established bed and breakfast inn. If the use is proposed on a property with a building on or eligible for the National Register or Historic Places, it shall be subject to the guidelines in “Special Uses in Historic Buildings” (Section 162), and not the guidelines of this section.
  - (b) The owner of the subject parcel shall live on the parcel and shall operate and manage the use.
  - (c) A single commercial event shall host no more than 100 guests.
  - (d) The use shall comply with the following parking requirements:
    - (A) A single commercial event shall include no more than 50 vehicles for guests.
    - (B) All parking shall occur on the subject parcel.

- (C) At least 200 square feet of parking space shall be required for each vehicle.
- (D) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.
- (E) All parking areas shall be fully screened from key viewing areas.
- (e) The owner of the subject parcel may conduct no more than 18 single events up to one day in length per year.
- (f) The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.
- (g) Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.
- (h) The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:
  - (A) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands.
  - (B) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Section 150(1)(a) or designated Commercial Forest Land or Large or Small Woodland, as required in Section 310.
  - (C) 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 parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.
- (i) For wineries, the wedding-commercial event site shall be located on property that comprises part of the winery. If the approved wedding-commercial event site is

located on a lot or parcel on which the winery is not located, approval for the use of the site shall be null and void if the parcel is sold as a separate and discrete parcel from the winery.

- (j) Approval of a permit issued under this Article does not create an entitlement that would ~~supereede~~supersede or countermand the right to farm.
- (k) The use may be affected by ORS Chapter 277 (“Fire Protection of Forests and Vegetation”), which allows the State Forester to permit closures which restrict access in case of fire hazard on forestland.
- (l) Application for this permit is limited to the following, as defined in Section 040:
  - i. Established Bed & Breakfast
  - ii. Established Winery/Cidery
- (m) Duration of event: No event shall take place outside the hours of 7:00 am to 10:00 pm.
- (n) Lighting. Exterior lighting shall not project into an adjoining residential area. Use of stadium-style, or other glaring lighting is prohibited. Lighting accessible paths may be required, if necessary.
- (o) Noise. It is unlawful for any person to make, continue, or cause to be made or continued, any noise, which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of a reasonable person of normal sensitivities present in the area.

Factors to consider in evaluating whether a noise is loud, disturbing, or excessive for the purposes of this Section, shall include, but not be limited to the following:

- The volume of the noise;
- The intensity of the noise;
- The duration of the noise;
- Whether the noise is recurrent, intermittent, or constraint;
- The time of day or night the noise occurs;
- Whether the nature of the noise is usual or unusual;
- Whether the origin of the noise is natural or unnatural;
- The nature and zoning of the area within which the noise emanates and where it is received;
- Whether the noise is produced by a commercial or noncommercial activity.

Noise shall be considered excessive and in violation of this ordinance if it meets one of the following criteria:

1. The noise is plainly audible from within any closed dwelling unit that is not the source of the sound; or
2. The sound peak pressure level of the noise, as measured on the A scale, shall not exceed sixty (60) db(A) during the hours of 7:00 am and 10:00 pm as measured at any of the complainant's property lines within a residential district or near a residential area.

~~Article 73's~~ The above noise standards shall ~~supercede~~<sup>supersede</sup> the County's Noise Ordinance, if there is a conflict between the provisions in the two.

- (p) Fire & Emergency Vehicle Access: Shall comply with Fire & Life Safety Requirements for Fire Department Access and Water Supplies.
- (q) Operator shall ensure that only caterers licensed in the States Oregon or Washington are contracted to provide food; caterers shall be bonded.
- (r) Operators shall comply with all requirements of the Oregon Liquor Control Commission (OLCC), if alcohol is served during an event.
- (s) Toilet facilities shall be portable with available hand-sanitizing or hand-washing facilities. Use of the dwelling's on-site septic facilities is not allowed for an event, except by resident or overnight guests of the facility.
- (t) One temporary sign may be allowed in addition to the allowed Bed and Breakfast sign (if applicable). The sign shall not exceed eight (8) square feet in size and shall be placed on private property on the day of the special event and shall be removed within 24 hours after the event.
- (u) The County and applicable Fire District shall review the plan to determine consistency with these requirements and to determine if sufficient, safe parking is identified. It is the applicant's responsibility to communicate parking instructions consistent with the approved plan to all guests and contract or regular employees prior to the event.
- (v) Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.
- (w) A yearly report shall be submitted to the reviewing agency by January 31<sup>st</sup> reporting on the events held the previous year. This report shall include the number of events held, how many people were in attendance, and copies of catering contracts or other vendors used to verify.
- (x) Permits shall not be renewed if there have been past violations, including failure

to file.

(3) Commercial Events Standards

In addition to the above requirements, the following standards shall apply to the proposed Commercial Event site Standards shall apply:

- (a) It shall employ on the site no more than five full-time or part-time persons.
- (b) It shall be operated substantially in:
  - 1. The dwelling; or
  - 2. Other buildings or areas designated in the permit which are normally associated with uses permitted in the zone in which the property is located.
- (c) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- (d) Nothing in this Section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the commercial event is to be established.
- (e) The existence of a commercial event shall not be justification for a plan and zone change.
- (f) It shall be subject to site plan review, as per Subsection 152(J)(4) below.
- (g) The use shall be incidental, accessory and subordinate to the primary use as an established B&B or winery/cidery. The event site shall cease to operate if the primary use is discontinued.
- (h) The use will not take an outward appearance nor manifest any characteristics of a business or operation of a retail or wholesale nature; except for those characteristics normally associated with or allowed for a winery/cidery (if the primary use is a winery/cidery).
- (i) There shall be no permanent visible evidence of conduct of a commercial event from any road or adjacent property.
- (j) Only limited retail sales and sales accessory to services associated with the primary use or commercial event site are permitted.
- (k) Approval is personal to the applicant and shall not run with the land.

- (l) If sale of the property is contemplated, applicant will inform the County Planning Department. If selling, leasing or allowing another individual to use the property and home occupation occurs, approval of the permit shall become null and void. Further use by other than the applicant requires additional review and approval by the Hood River County Planning Department.
- (m) Permanent signage related to ~~weddings and related commercial~~ events may only be included in the principal sign allowed, unless required by the State for the protection of the public's health, safety and welfare.
- (n) The use shall not generate additional traffic or parking beyond what is otherwise permitted.
- (o) The owner shall keep a record of the name and license # of the caterers used for each event for one year, for review upon request by County Environmental Health.

(4) Site Plan Review

- (a) Applicant shall provide a written narrative and site plan addressing the following issues:
  1. Designated area and existing structures to be used for the events
  2. Number of events anticipated per year/season
  3. Frequency of events
  4. Maximum number of guests intend to serve
  5. Anticipated Noise
  6. Infrastructure – How will you provide electricity and utilities to the event?
  7. Parking & Circulation – Need to provide one (10' x 20') parking space per vehicle.
  8. Traffic and Access
  9. Lighting
  10. Environmental Health Aspects
    - i. How will food be provided? Where will it be served?
    - ii. What is your domestic water source?

iii. Indicate how many portable toilets will be provided, as well as how hand-sanitizing or hand-washing facilities will be provided.

11. Safety & Insurance

12. Are alcoholic beverages being served? If so, are OLCC requirements being met?

(5) Review of Use

Review of the use shall be subject to the provisions in Article 68 (“Revocation”), of the Hood River County Zoning Ordinance.

(6) Amendments

Other than “minor amendments” allowed under Section 140, amendments to an approved commercial event site shall be processed as a new administrative action, subject to the provisions of this Article.

(7) Enforcement

- A. Notify law enforcement if there is a violation (pertaining to noise and parking).
- B. The permit holder is responsible for any violations of their permit.
- C. Unless an extension has been granted to the permit holder, a permit issued under this Article shall automatically become null and void one year after the date on which it was granted if the use has not commenced.
- D. If the primary use (winery/cidery or B&B) has been discontinued for over one year, or the secondary use (~~home occupation for weddings &~~ related commercial events site) has been discontinued for over two years, the permit shall be considered null and void.
- E. The Board of Commissioners with or without recommendation of the Planning Commission may void the permit providing the following conditions and procedures are followed:
  - 1. Upon review by the Planning Director a violation of the conditions of the Ppermit of this ordinance is found. The Planning Director shall inform the applicant by registered or certified letter, and regular mail, of the violation.
  - 2. The Planning Director may refer the matter of the violation to mediation, if all parties to the matter, including the County, consent.

3. If the violation is not corrected, by mediation or otherwise, or if a subsequent violation occurs after issuance of the Planning Director's notice of violation, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation(s). The Board shall then set a hearing date on the violation.
4. At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition, all who are notified of the original application and those who testified shall be notified by regular mail.
5. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.

F. In NSA Agricultural and Forest zones, the requirements below ~~supereedes~~supersede Section 152~~(J)(7)(D)~~ (K)(3)(c) above if the violation is specific to how the use affects farm or forest practices on surrounding resource lands.

1. A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the County Planning Director alleging:
  - a. That a condition imposed has been violated;
  - b. That the violation has:
    - A. Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
    - B. Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  - c. That the complainant is adversely affected by the violation.
2. Upon receipt of a complaint, the local governing body or its designee shall:
  - a. Forward the complaint to the operator of the use;
  - b. Review the complaint in the manner set forth in the Section in ORS 215 on Planning and Zoning Hearings & Review; and
  - c. Determine whether the allegations made pursuant to subsection (1) of this Section are true.
3. Upon a determination that the allegations of the complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the

violation within a specified time period and warn the violator against the commission of further violations.

4. If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (3) of this Section, or if there is a determination pursuant to subsection (2) of this Section following the receipt of a second complaint that a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.
5. If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (4) of this Section, or if there is a determination pursuant to subsection (2) of this Section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.
6. If a home occupation for ~~weddings and related a commercial~~ events site is initiated without prior approval, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (2) of this Section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.
7. A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (1) of this Section.
8. Nothing in this Section shall prevent the County from establishing standards in addition to those set forth in ORS 215.296(1) or from imposing conditions to insure conformance with such additional standards.

## L. Columbia River Bridge Replacement

### (1) Visual Quality

- (a) A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall be visually unobtrusive and harmonious with the surrounding Gorge landscape and the Columbia River. A replacement bridge is exempt from scenic review standards from Section 520, but A replacement bridge shall comply with the following visual quality standards:
  - (A) Utilize recessive dark natural or earth-tone colors for steel components of the bridge, a thin and open structural design that allows views through it to the extent practicable, and consistent design character and ornamental elements;
  - (B) Employ lighting that provides a safe and pleasant atmosphere for bicycles and pedestrians while not casting glare directly into the sky or onto the river.

### (2) Historic Design Elements

- (a) A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall incorporate elements that reflect historic design features of National Scenic Area roadways and bridges. The historic themes should be an integral component of the design of the bridge structure, incorporated from “shore to shore.”
- (b) A replacement bridge should include:
  - (A) Arches and ~~or~~ other traditional structural forms in the bridge;
  - (B) Historic style benches, lighting, other pedestrian furnishings, and signage sign/graphic materials consistent with the USFS Graphic Signing System for the National Scenic Area;
  - (C) Ornamental concrete or steel railings.

### (3) Recreation and Pedestrian/Bicycle Access

- (a) A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall encourage and promote pedestrian and bicycle use, for recreational enjoyment and to enhance multi-modal transportation connections between the ~~Urban Areas~~ urban areas it connects.
- (b) The bridge shall include facilities for pedestrians and bicyclists that:
  - (A) Are permanent;

- (B) Are wide enough to safely accommodate and encourage walking, bicycling, and other uses;
- (C) Meet safety standards to prevent conflicts among automobiles, trucks, pedestrians, bicyclists, and other users;
- (D) Provide multiple sitting and viewing areas with significant upstream and downstream views;
- (E) Are safe to approach from both the north and south ends of the bridge and provide strong multi-modal connections, both east-west and to the nearby ~~Urban Areas~~ urban areas.

**154. Applying New Less-Stringent Regulations to Development Approved Under Prior National Scenic Area Regulations**

- (1) A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior **National** Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final Interim Guidelines*, original *Management Plan*), subject to the following standards:
  - (a) The applicant shall apply for the same development that was reviewed in the original decision.
  - (b) The development shall remain in its current location.
  - (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.
  - (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).
  - (e) The agency shall issue a new decision that supersedes the original decision.
  - (f) The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with all the current guidelines.

## **156. Expedited Development Review Process**

### **A. Expedited Review Uses**

- (1) The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines contained in this Section.
  - (a) Except on lands zoned Open Space, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.
  - (b) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.
  - (c) Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.
  - (d) Wire-strand fences other than those allowed outright, provided the fence complies with Section 580(7) if it is inside deer and elk winter range as delineated in the Gorge Commission and ~~USDA~~ Forest Service natural resource inventories data or determined by an appropriate federal or state agency.
  - (e) In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.
  - (f) Decks that are: (1) uncovered; (2) attached and accessory to existing dwellings; and (3) 500 square feet or less in area and 30 inches or less in height above existing grade.
  - (g) Road closure gates.
  - (h) Signs, other than those allowed outright.
  - (i) Outdoor lights.
  - (j) Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square

feet in size and less than or equal to 12 feet in height.

- (k) Lot line adjustments in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to Section 165, except all lot line adjustments for parcels designated Open Space or Public Recreation shall be reviewed through the full development review process.
- (l) Lot line adjustments in the Special Management Area, subject to Section 165.
- (m) Removal/demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.
- (n) Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.
- (o) Trail reconstruction involving up to 1,000 feet of trail re-route.
- (p) The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):
  - (A) New guardrail traffic barriers and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.
  - (B) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.
  - (C) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.
  - (D) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.
- (q) The following underground utility facilities:
  - (A) New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no ditch for linear facilities would be more than 36 inches wide and (2) no excavation for non-linear facilities would exceed 20 cubic yards.
- (r) The following aboveground and overhead utility facilities:

- (A) Modify existing aboveground and overhead utility facilities or develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.
- (B) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.
- (C) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.
- (s) Replace an existing mobile home in a mobile home space within a mobile home park, provided: (1) the mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of *existing use or structure* and Section 075(1) through (4); (2) the replacement mobile home shall be in the same location as the mobile home to be replaced; (3) the height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced, and (4) the mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.
- (t) Retaining walls accessory to existing dwellings less than or equal to 2 feet in height and less than or equal to 100 feet in length.
- (u) In the Special Management Areas, wind machines for frost control in conjunction with agricultural use.
- (v) Additions to existing buildings or structures that generate solar power for approved uses, provided that the panels and hardware are non-reflective black or dark earth tone colors and do not increase the overall roof height. This category does not include free-standing solar arrays, which are subject to full review as new structures under the guidelines in "Renewable Energy Production" (Section 163).

## **B. Resource and Treaty Rights Protections Guidelines**

- (1) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

(a) Scenic

- (A) In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.
- (B) Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors ~~or list of acceptable colors~~ approved by the reviewing agency shall be included as a condition of approval. This guideline shall not apply to additions to existing buildings smaller in total square area than the existing building, which may be the same color as the existing building ~~match the color of existing buildings~~.
- (C) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.
- (D) ~~Outdoor lights~~ Any exterior lighting shall be sited, limited in intensity, hooded, and shielded ~~such that they are not highly visible from key viewing areas~~ in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
- (E) Signs shall comply with Section 160.
- (F) Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).

(b) Cultural

- (A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to Section 540(1)(c)(A B)(ii) or historic survey, pursuant to Section 540(1)(c)(B C).
- (B) The GMA guidelines that protect cultural resources and human remains discovered during construction [Section 540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.

(c) Recreation

- (A) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

(d) Natural

- (A) Water Resources (Wetlands, Streams, Rivers, Ponds, and Lakes, and Riparian Areas)

- (i) The development is outside water resources and their buffer zones ~~for wetlands, streams, rivers, ponds, and lakes~~. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

- (B) Sensitive Wildlife and Sensitive Rare Plants

- (i) The development meets one of the following:

- (I) The development is at least 1,000 feet from known Priority Habitats or sensitive wildlife ~~areas or~~ sites (excluding sensitive aquatic species, and deer and elk winter range, ~~and turkey habitat~~) and known sensitive rare plants; or
- (II) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or
- (III) For sensitive wildlife, the development is within 1,000 feet of known Priority Habitats or sensitive wildlife ~~areas or~~ sites (excluding sensitive aquatic species, and deer and elk winter range ~~and turkey habitat~~), but an appropriate federal or state wildlife agency determines (1) the Priority Habitats or sensitive wildlife ~~area or~~ site is not active or (2) the proposed development would not compromise the integrity of the Priority Habitats or wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance.

For sensitive rare plants, the development is within 1,000 feet of known sensitive rare plants, but the Oregon Natural Heritage Program Biodiversity Information Center or a

person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive rare plants.

- (ii) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife or sensitive rare plants [Section 580~~(1)(b) and (2)~~ (4); Section 590~~(1)(b) and (2)~~ (4)].
- (2) Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:
- (a) Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.
  - (b) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe a tribal government submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.
  - (c) Except as provided in 2(b) above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Section 150(3) and (5) (Tribal Treaty Rights and Consultation) shall not apply to proposed developments reviewed under the expedited review process.

### C. Procedures for Expedited Review Process

#### (1) Applications

- ~~(a) Prior to initiating any use or development which requires review and approval by the Planning Director, an application shall be completed pursuant to Section 156.~~
- ~~(b) The Planning Director shall accept and review the application pursuant to Section 156 for consistency with the appropriate guidelines of this rule.~~
- (ea) The County Planning Department may charge a fee for review of applications. The Planning Director shall set the fee, which shall not exceed the average cost to the County of reviewing applications.
- (eb) Standard application forms shall be are available at the Planning Office or on the County website.
- (ec) Applications for uses eligible for expedited review shall include the information required for review uses listed in Section 080. They shall also include elevation

drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

(2) Acceptance of Application

- (a) Within ~~14~~ 30-days of the receipt of an application, the Planning Director shall review the application for completeness. ~~The Planning Director shall accept a complete application within 14 days of receipt of the application.~~
- (b) ~~No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Planning Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application. If an application is determined to be incomplete, the applicant shall be notified and given an opportunity to submit a written response as outlined in Section 100(1).~~

(3) Notice of Development Review

- (a) ~~Within 7 days of the acceptance of an application, Upon an application being deemed complete,~~ the Planning Director shall issue notice of a proposed development review. The notice shall provide the following information:
  - (A) The name of the applicant and property owner (if different);
  - (B) The general and specific location of the subject property;
  - (C) A brief description of the proposed action;
  - (D) The deadline for rendering a decision; and
  - (E) The deadline for filing comments on the proposed action.
- (b) The notice shall state that the application and supporting documents are available for inspection at the Planning Department during normal working hours.
- ~~(c) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~
- ~~(d)~~ (e) The notice shall be mailed to the Forest Service, the four Indian tribal governments Columbia River treaty tribes, Gorge Commission, and other agencies or other and interested parties that request a notice or that the Planning Director determines should be notified, and parties who pay the County an annual subscription fee for such notices.
- (e) A copy of the notice shall be filed in the records of the Planning Department.

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

(5) Written Decision

(a) In making a decision on a proposed use or development the Planning Director shall:

(A) Consult with the applicant and such agencies as the Planning Director deems appropriate;

(B) Consider information submitted by the applicant and all other relevant information available;

(C) Consider all comments submitted pursuant to Section 156(C)(4); and

~~(D) — Solicit and consider the comments of the Forest Service.~~

(b) The Planning Director shall ~~prepare written decisions for all development reviewed under the expedited review process. The decisions shall include findings of fact, conclusions of law, and, if necessary, conditions of approval. approve a proposed use or development only if it is consistent with the standards of Section 6 and the purposes of P.L. 99-663 and Article 75.~~

~~(A) — In approving a proposed development action, the Planning Director may impose conditions as necessary to ensure consistency with the guidelines of Article 75.~~

~~(B) — 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 Planning Director's decision shall include this requirement.~~

(c) The Planning Director shall attempt to issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of Article 75 within 30 90 days after acceptance of the application.

(d) The decision of the Planning Director shall be final unless a Notice of Appeal is filed in accordance with Section 156(C)(6). An applicant who chooses to proceed with an approved development during the appeal period shall assume all

associated risks and liabilities.

(6) Notice of Decision and Opportunity to Appeal

- (a) The Planning Director shall send a copy of a decision issued under the expedited review process to the four **Indian** tribal governments, the Forest Service, **Gorge Commission**, and landowners within 200 feet of the perimeter of the subject parcel.
- (b) Any person shall be allowed to appeal a decision issued under the expedited review process within 10 days of the decision.

(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 (Section 135).

(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 (Section 140).

## **158. Emergency /Disaster Response Actions**

### (1) General Guidelines

- (a) Actions taken in response to an emergency/disaster event, as defined in Section 040, are allowed in all GMA/SMA land use designations, subject to the notification requirements in "Notification Requirements" (Subsection 2, below).
- (b) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, ~~and~~/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.
- (c) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two years may be granted by the Planning Director or the Forest Service for federal agency actions.
- (d) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.
- (e) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

### (2) Notification Requirements

- (a) Actions taken in response to an emergency/disaster event, as defined, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.
  - (A) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties,

another responder elects to assume this responsibility.

- (B) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.
  - (C) Notification shall be furnished to the Planning Director or the Forest Service for federal agency actions. If the Forest Service is the action agency, it shall provide notice to the Gorge Commission.
  - (D) At a minimum, the following information shall be required at the time of notification:
    - (i) Nature of emergency/disaster event.
    - (ii) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).
    - (iii) Location of emergency/disaster response activities.
  - ~~(E)~~ (iv) Estimated start and duration of emergency/disaster response activities.
  - ~~(iv)~~ (v) Contact person and phone number for the parties conducting emergency/disaster response actions.
  - ~~(FE)~~ Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.
- (b) Upon notification of an emergency/disaster response action, the Planning Director, or Forest Service shall, as soon as possible:
- (A) Review its natural resource ~~inventory~~ data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;
  - (B) Notify the Oregon Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;
  - (C) Notify the Forest Service, the Oregon Historic Preservation Office, and the tribal governments of all emergency/disaster response activities. The Forest

Service will review their cultural resource ~~inventory~~ data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

- (c) Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.
- (3) Post-Emergency/Disaster Response Development Review Application Requirements
- (a) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the party providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration ~~and not more than two (2) extensions shall be granted.~~
  - (b) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.
  - (c) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).
  - (d) Applications shall include the following information:
    - (A) Applicant's name and address.
    - (B) Location of emergency/disaster response.
    - (C) A written description of the emergency/disaster response, including any

structures erected, excavation or other grading activities, or vegetation removal.

- (D) A map of the project area drawn to scale, at a scale of 1 inch = 200 feet or a scale providing greater detail. The map shall include:
  - (i) North arrow and scale.
  - (ii) Boundaries, dimensions and size of subject parcel(s).
  - (iii) Bodies of water, watercourses, and significant landforms.
  - (iv) Existing roads and structures.
  - (v) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

- (E) An exception to the scale requirements in subsection ~~(3)(d)~~(D) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1 inch = 200 feet or a scale providing greater detail shall be provided that shows a Section of the response area exemplifying the specific actions taken.

- (e) Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:
  - (A) Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, the four tribal governments Columbia River treaty tribes, and interested parties.
  - (B) A written decision with findings of fact and conclusions of law.
  - (C) An opportunity to request a hearing.

#### (4) Post-Emergency/Disaster Response Development Review

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

- (a) Scenic Resources
  - (A) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions

shall be rendered visually subordinate in their landscape setting as ~~seen~~ visible from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in Section 520(3)(h). In the SMAs, such actions shall meet the scenic standards to the greatest extent practicable.

- (B) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
- (C) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one year.
- (D) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as ~~seen~~ visible from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.
- (E) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as ~~seen~~ visible from key viewing areas to the greatest extent practicable.
- (F) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:
  - (i) The spoil materials shall either be:
    - (I) Removed from the ~~NSA National Scenic Area~~
    - (II) Deposited at a site within the ~~NSA National Scenic Area~~ permitted by ~~the Planning Director an agency administering a Scenic Area land use ordinance~~, or
    - (III) (Re)contoured, to the greatest extent practicable, to retain the

natural topography, or a topography which emulates that of the surrounding landscape.

- (ii) The Planning Director shall decide whether an applicant removes the spoil materials ~~[Section 158(4)(a)(F)(i)(I)]~~, deposits the spoil materials ~~[subsection (4)(a)(F)(i)(II)]~~, or (re)contours the spoils materials ~~[subsection (4)(a)(F)(i)(III)]~~ per Subsection (i) above. The applicant does not make this decision.
  - (iii) The Planning Director shall select the action in Subsection ~~158(4)(a)(F)(i)~~, above that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.
  - (iv) Disposal sites created according to Subsection ~~158(4)(a)(F)(i)(II)~~, above shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.
- (G) In the Special Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:
- (i) The spoil materials shall either be:
    - (I) Removed from the ~~NSA National Scenic Area~~, or
    - (II) Deposited at a site within the ~~NSA National Scenic Area~~ permitted by ~~the Planning Director an agency administering a Scenic Area land use ordinance~~ within two years of the emergency.
  - (ii) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.
  - (iii) All grading (i.e., recontouring) shall be completed within 30 days after the spoils materials are removed.
  - (iv) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.
  - (v) All revegetation shall take place within one (1) year of the

date an applicant completes the grading.

(vi) This provision shall take effect August 3, 2006.

(b) Cultural Resources and Treaty Rights

- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. ~~Emergency/disaster response actions shall not affect tribal treaty rights.~~
- (B) Emergency/disaster response actions shall not affect or modify tribal treaty rights.
- (C) The ~~USDA~~ Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Planning Director.
- (i) Reconnaissance surveys shall be conducted by the ~~USDA~~ Forest Service and comply with the standards in Section 540(1)~~(D)~~ ~~(c)~~~~(F)~~. Reconnaissance survey reports shall comply with the standards in Section 540(1)~~(c)~~~~(G)~~.
- (ii) Historic surveys shall be conducted by the ~~USDA~~ Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.
- (D) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the tribal governments shall be notified by the Planning Director when ~~(1)~~ a reconnaissance survey is required or ~~(2)~~ cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them.
- (E) When written comments are submitted in compliance with ~~Subsection 158(4)(b)(C)(D)~~, above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period

may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Planning Director following the consultation meeting. Consultation meetings and reports shall comply with the standards in Section 540(2)(a), and 150(3)(b) (A) ~~and (B)~~.

- (F) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in Section 540(1)(c) ~~(GH)~~ and Section 540(3)(a).
- (G) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in Section 540(5).
- (H) The Planning Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the final decision.
- (I) The Planning Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the Planning Director shall justify how the opposing conclusion was reached.
- (J) The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:
  - (i) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.
  - (ii) The emergency/disaster response action avoided cultural resources that exist in the project area.

- (iii) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.
  - (iv) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:
    - (I) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the “National Register Criteria for Evaluation” (36 CFR 60.4), or
    - (II) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior’s Standards for Rehabilitation* [U.S. Department of the Interior 1990] and *The Secretary of the Interior’s Standards for Historic Preservation Projects* [U.S. Department of the Interior 1983].
- (c) Natural Resources
- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.
  - (B) Buffer zones for ~~wetlands, streams, ponds, riparian areas,~~ water resources, Priority Habitats or sensitive wildlife sites ~~or areas,~~ and sites containing rare plants, shall be the same as those established in Section 560 through 600.
  - (C) ~~Wetlands, Streams, Ponds, Lakes, Riparian Areas~~ Water Resources
    - (i) Emergency/disaster response actions occurring within a ~~a-water resources~~ buffer zone ~~of wetlands, streams, pond, lakes or riparian areas~~ shall be reviewed by the Oregon Department of Fish and Wildlife. These areas are also referred to in this Section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. ~~State biologists shall respond within 15 days of the date the application is mailed.~~
    - (ii) When emergency/disaster response activities occur within ~~wetlands,~~

~~streams, ponds, lakes, riparian areas, or the water resources or their buffer zones of these areas~~, the applicant shall demonstrate the following:

- (I) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.
  - (II) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.
- (iii) 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.
- (iv) If the Planning Director, in consultation with the state wildlife agency, 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 consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final order and the aquatic area protection process may conclude.
- (v) Unless addressed through subsection ~~(4)(e)(C)~~(iv) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan Water Resources Mitigation Plan. ~~Rehabilitation Plan Water Resources Mitigation Plan~~ shall satisfy the standards in Section ~~560(11) 570(9)(a) and (b)~~. Rehabilitation Plan Water Resources Mitigation Plan shall also satisfy the following:
- (I) 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.

- (II) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.
  - (III) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.
- (D) Wildlife Habitat
- (i) Emergency/disaster response actions occurring within 1,000 feet of a ~~sensitive wildlife area or~~ Priority Habitat or sensitive wildlife site, shall be reviewed by the Oregon 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.
  - (ii) Site plans for emergency/disaster response sites shall be submitted by the Planning Director to the Oregon Department of Fish and Wildlife for review as prescribed in Section 580(5)(~~ac~~) and (~~bd~~). ~~The wildlife agency shall respond within 15 days of the date the application is mailed.~~
  - (iii) The wildlife protection process may terminate if the Planning Director, in consultation with the state wildlife agency, determines: (1) the ~~sensitive wildlife area or~~ Priority Habitat or sensitive wildlife site was not active, or (2) the emergency/disaster response did not compromise the integrity of the ~~wildlife area or~~ Priority Habitat or sensitive wildlife site or occurred at a time when wildlife species are not sensitive to disturbance.
  - (iv) If the Planning Director, in consultation with the state wildlife agency, 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) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final decision and the wildlife protection process may conclude.
  - (v) If the Planning Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities

had adverse effect on a ~~sensitive wildlife area or~~ Priority Habitat or sensitive wildlife or site, the project applicant shall prepare a Wildlife Management Mitigation Plan. Wildlife ~~Management- Mitigation~~ Plans shall comply with standards in Section 580(6). Upon completion of the Wildlife Management Plan, the Planning Director shall:

- (I) Submit a copy of the Wildlife Management Mitigation Plan to the state wildlife agency for review. The state wildlife agency will have 15 days from the date that a plan is mailed to submit written comments to the Planning Director;
- (II) Record any written comments submitted by the state wildlife agency in its development review order. Based on these comments, the Planning Director shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Planning Director shall justify how the opposing conclusion was reached.
- (III) Require the project applicant to revise the Wildlife Management Mitigation Plan as necessary to ensure that the proposed use would not adversely affect a ~~sensitive wildlife area or~~ Priority Habitat or sensitive wildlife site.

(E) Deer and Elk Winter Range

- (i) Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in Section 580(7).

(F) Rare Plants

- (i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant, shall be reviewed by the Oregon Natural Heritage Program Biological Information Center. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.
- (ii) Site plans for emergency/disaster response sites shall be submitted to the Oregon Natural Heritage Program Biological Information Center by the Planning Director. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the

applicant's site plan.

- (iii) The rare plant protection process may conclude if the Planning Director, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.
- (iv) If the Planning Director, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, 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 natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final decision order and the rare plant protection process may conclude.
- (v) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse ~~ae~~ffects on rare plants or their buffer zone, the project applicant shall prepare a ~~protection and rehabilitation plan~~ Rare Plant Mitigation Plan that meets the standards in Section 590(6).
- (vi) The Planning Director shall submit a copy of all ~~protection and rehabilitation plan~~ Rare Plant Mitigation Plan to the state heritage program for review. The state natural heritage program will have 15 days from the date the ~~protection and rehabilitation plan~~ Rare Plant Mitigation Plan is mailed to submit written comments to the Planning Director.

The Planning Director shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the Planning Director shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the Planning Director shall justify how the opposing conclusion was reached.

- (vii) The Planning Director shall require the project applicant to revise the ~~protection and rehabilitation plan~~ Rare Plant Mitigation Plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

- (d) Recreational Resources
- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.
  - (B) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.
- (5) Post-Emergency Construction
- (a) The following review use is allowed in all land use designations in accordance with Sections 050 through 70, Sections 080 through 140, ~~Sections 050 through 70~~, Sections 150 through 165 (as applicable), and Sections 520 through 620:
    - (A) 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 replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use applications shall be submitted within 12 months following an emergency/disaster event.

## **160. Signs**

- (1) Signs may be allowed in all land use designations in the General Management Area pursuant to the following provisions:
  - (a) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual ~~for~~ on Uniform Traffic Control Devices (2012, or most recent version), the following signs are prohibited:
    - (A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.
    - (B) New billboards.
    - (C) Signs with moving elements.
    - (D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.
  - (b) In addition to subsection (1)(a) above and (1)(f) below, signs for recreational uses shall meet the following guidelines according to Recreation Intensity Class (and subject to compliance with the "Approval Criteria for Recreation Uses" and "Facility Design Guidelines For All Recreation Projects", in Sections 610(5) and (7)):
    - (A) Recreation Intensity Class 1 (Very Low Intensity) - Simple interpretive signs or displays, not to exceed a total of 50 square feet. Entry name signs, not to exceed 10 square feet per sign.
    - (B) Recreation Intensity Class 2 (Low Intensity) - Simple interpretive signs and displays, not to exceed a total of 100 square feet. Entry name signs, not to exceed 20 square feet per sign.
    - (C) Recreation Intensity Class 3 (Moderate Intensity) - Interpretive signs, displays or facilities. Visitor information and environmental education signs, displays, or facilities. Entry name signs, not to exceed 32 square feet per sign.
    - (D) Recreation Intensity Class 4 (High Intensity) - Entry name signs, not to exceed 40 square feet per sign.
  - (c) For recreation facility design projects, signs shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes

(~~b~~ d) Any sign which does not conform with a provision of Section 160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:

(A) Alteration of existing non-conforming signs shall comply with Section 160.

(B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(~~e~~ e) Signs allowed outright as listed in Section 070(1)(a)(L).

(~~d~~ f) All signs shall meet the following guidelines unless they conflict with the *Manual for on Uniform Traffic Control Devices (2012, or most recent version)* for public safety, traffic control or highway construction signs. In such cases, the standards in the *Manual for on Uniform Traffic Control Devices (2012, or most recent version)* shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Back-lighting is not permitted for signs.

(~~e~~ g) Business identification or facility entry signs located on the premises may be allowed, subject to Subsection 160(1)(~~d~~ f) above.

(~~f~~ h) Other signs not addressed or expressly prohibited by this rule may be permitted without review.

(2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:

(a) Prohibited Signs

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway

construction, warning or safety.

- (C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.
- (b) New signs shall be allowed as specified in the applicable land use designation.
- (c) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.
- (d) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.
- (e) All new signs, except for signs allowed without review by Section 070, shall meet the following guidelines, and be consistent with the *Manual ~~for~~ on Uniform Traffic Control Devices (2012, or most recent version)*:
  - (A) Signs shall be maintained in a neat, clean and attractive condition.
  - (B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.
  - (C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.
  - (D) Signs shall be unobtrusive and have low contrast with the setting.
  - (E) The visual impact of the support structure shall be minimized.
  - (F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.
  - (G) Backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.
  - (H) **Sign** Internal illumination or back-lighting **of signs** shall not be permitted except for highway construction, warning or safety.
- (f) Public signs shall meet the following guidelines in addition to subsections (b) through (e) above:
  - (A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs,

except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

- (B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.
- (C) Signs located outside public road rights-of-way are encouraged to be designed in a way that is consistent with similar-purpose signs described in the Graphic Signing System. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.
- (g) Signs for public recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections 160(2)(a) through (d) and 160(2)(g):
  - (A) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.
  - (B) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.
  - (C) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.
  - (D) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.
  - (E) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.
- (h) Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

## **162. Special Uses in Historic Buildings**

### **(1) Special uses in historic buildings may be allowed as follows and subject to “Additional Resource Protection Guidelines for Special Uses in Historic Buildings” ~~(350-81-114(2))~~.**

- (a) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the “Additional Resource Protection Guidelines for Special Uses in Historic Buildings:” Cultural Resources Guidelines (Subsection ~~162~~(2)(a)(B)(i) and (ii), and Subsection ~~162~~(2)(a)(C) through (E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Subsection ~~162~~(2)(b) through (d)). Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.
- (b) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the “Additional Resource Protection Guidelines for Special Uses in Historic Buildings”: Cultural Resources Guidelines (Subsection ~~162~~(2)(a)(B)(i) and (ii), and Subsection ~~162~~(2)(a)(C) through (E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Subsection ~~162~~(2)(b) through (d)). The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.
- (c) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the “Additional Resource Protection Guidelines for Special Uses in Historic Buildings”: Cultural Resources Guidelines Subsection ~~162~~(2)(a)(B) through (E); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Subsection ~~162~~(2)(b) through (d)).
- (d) The following additional review uses may be allowed in all GMA land use

designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and “Additional Resource Protection Guidelines for Special Uses in Historic Buildings”:

- (A) Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.
- (B) Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.
- (C) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property.
- (D) Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from grapes-grown fruits harvested on the subject parcel or and the local region, within a historic building, as the building existed as of January 1, 2006.
- (E) Sales/tasting rooms in conjunction with an on-site winery or cidery, within a historic building, as the building existed as of January 1, 2006.
- (F) Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.
- (G) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.
- (H) Gift shops within a historic building, as the building existed as of January 1, 2006 that are:
  - (1) incidental and subordinate to another approved use included in Subsection 162(1)(d); and
  - (2) no larger than 100 square feet in area.
- (I) Interpretive displays, picnic areas or other recreational day use activities on the subject property.

- (J) Parking areas on the subject property to support any of the above uses.
- (e) For the purposes of the guidelines in this section, the term “historic buildings” refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline Section ~~162~~(2)(a)(A) of “Additional Resource Protection Guidelines for Special Uses in Historic Buildings.” below.
- (f) Uses listed in Subsection 162(1)(c) and (1)(d)(C) above are not subject to the “Commercial Events” provisions in 152(~~JK~~). Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the “Operational Plan for Commercial Events” as specified in Subsection 162(2)(B)(iv) below of “Additional Resource Protection Guidelines for Special Uses in Historic Buildings”. The following apply to commercial events at historic properties:
- (A) Commercial events include weddings, receptions, indoor concerts, farm dinners, or events similar in size and activity and must be parties and other gatherings that are incidental and subordinate to the primary use on a parcel.
- (B) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.
- (g) Uses listed in Subsection 162(1)(a) and (1)(d)(I) above are not subject to the parking limits and associated “Facility Design Guidelines” in the Recreation Intensity Classes.
- (h) Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implementing the “Protection and Enhancement Plan” required in Cultural Resources (Subsection 162(2)(a)) of “Additional Resource Protection Guidelines for Special Uses in Historic Buildings”. The local government shall submit a copy of the applicant’s documentation to the State Historic Preservation Agency Officer (SHPAO). The SHPA SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government’s determination contradicts comments from the SHPA SHPO, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the “Protection and Enhancement Plan” according to the schedule for

completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

## **(2) Additional Resource Protection Guidelines for Special Uses in Historic Buildings.**

The following guidelines apply to proposed uses listed under “Special Uses for Historic Buildings” in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources:

### **(a) Cultural Resources:**

- (A) All applications for uses listed in Subsection 162(1)(d) above, shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in “Historic Surveys and Reports” (Section 540(1)(c)(H J). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin “How to Apply the National Register Criteria for Evaluation” [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the local government, based on input from the State Historic Preservation Agency Officer (SHPAO). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA SHPO. The SHPA SHPO shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government’s determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

- (B) Applications for Special Uses for Historic Buildings shall include a “Protection and Enhancement Plan” which shall include the following:

(i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.

- (ii) 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*.
- (iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.
- (iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:
- (I) Number of events to be held annually.
  - (II) Maximum size of events, including number of guests and vehicles at proposed parking area.
  - (III) Provision for temporary structures, including location and type of structures anticipated.
  - (IV) How the proposed commercial events will contribute to protection and enhancement of the historic resource.
- (C) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency Officer (SHPAO). The SHPA SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA SHPO comments shall address 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*, and the effect of the proposed use on the historic resource.
- (D) Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent 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*. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.
- (E) The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of

the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(b) Scenic Resources:

- (A) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.
- (B) New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.
- (C) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

(c) Recreation Resources

- (A) The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

(d) Agricultural and Forest Lands

- (A) The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.
- (B) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.
- (C) 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 designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large

or Small Woodland.

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

### **163. Renewable Energy Production**

1. Production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited.
2. 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 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.
3. Equipment attached to an existing structure is an addition to the structure on which it is located.
4. Free-standing equipment is a new accessory structure.

## 165. Land Divisions and Lot Line Adjustments

### **(A) Consolidation of Lots**

- (1) A unit of land shall be consolidated with adjacent lands in the same ownership if the subdivision within which the unit of land is located is undeveloped pursuant to ORS Chapter 92.
- (2) No portion of a consolidated plat shall be considered a separate parcel solely because an existing parcel overlays, and possibly fragments, that consolidated subdivision.
- (3) Subsection 1 above shall not be applied to consolidate two or more units of land where each unit of land is developed with a dwelling that qualifies as an existing use. One or more undeveloped units of land shall be consolidated with one or more developed units of land.
- (4) To carry out this Section, counties shall develop their own procedures for consolidating units of land pursuant to this provision, including amending plats, vacating plats, replatting, or other similar legal action.

### **(B) Land Divisions ~~and Cluster Development~~**

- (1) 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.
- (2) ~~Unless otherwise specified, creation~~ Creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines in Article 75.
- (3) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.
- (4) ~~Land divisions shall be limited in deer and elk winter range and turkey habitat as follows:-~~
  - (a) ~~On lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that include deer and elk winter range or turkey habitat, new parcels shall be 40 acres or larger west of the Hood River and 80 acres or larger east of the Hood River.~~
- (4) ~~Where authorized in Section 170 through Section 505, a land division in the GMA may create parcels smaller than the designated minimum size and may include a bonus, as specified under Section 165(6) below, 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:~~

- ~~(a) Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas.~~
  - ~~(b) Avoid significant landscape features.~~
  - ~~(c) Protect the existing character of the landscape setting.~~
  - ~~(d) Reduce interference with movement of deer or elk in winter range.~~
  - ~~(e) Avoid areas of known cultural resources.~~
  - ~~(f) Consolidate road access, septic drainfields, or other development features to reduce impacts associated with grading or ground disturbance.~~
  - ~~(g) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or other natural resources.~~
  - ~~(h) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.~~
- ~~(5) In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. The local government shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or 10-acre Residential designation or 2 acres in a Small Scale Agriculture or Small Woodland designation.~~
- ~~(6) In the GMA, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more on lands designated Small Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.~~
- ~~(7) In the GMA, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.~~
- ~~(8) In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.~~

### **(C) Lot Line Adjustments**

- (1) The following guidelines shall apply to lot line adjustments in the GMA.
- (a) Lot line adjustments for parcels in all land use designations except Open Space or Public Recreation shall comply with the following standards:
    - (A) The lot line adjustment shall not result in the creation of any new parcel(s).
    - (B) The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the maximum density allowed by the land use designation(s) for the affected parcels.
    - (C) The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.
    - (D) The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:
      - (i) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become eligible for a subsequent land division and (2) the amount of land transferred would be the minimum necessary to resolve the issue.
      - (ii) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided 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.
- (b) 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. (Note: There is no specified minimum parcel size for parcels designated Open Space.)
  - (B) The lot line adjustment shall comply with subsections (1)(a)(A), (B), (E), (F), and (G), above.
- (c) Lot line adjustments for parcels designated Public 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. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation.)
  - (B) The lot line adjustment shall comply with Subsections (1)(a)(A), (B), (E), (F), and (G), above.
- (2) The following guidelines shall apply to lot line adjustments in the SMA.
- (a) The proposed lot line adjustment shall not result in the creation of any new parcel(s).
  - (b) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres with a dwelling becoming less than 40 acres.
  - (c) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.
  - (d) A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:

- (A) Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become 40 acres or greater and (2) the amount of land transferred would be the minimum necessary to resolve the issue.
- (B) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.
- (e) The lot line adjustment shall not cause previously approved parcels or development 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.
- (f) 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.

**170. Agricultural Zones (AG-1) (AG-2) (AG)**

Sections 170 through 225 apply to lands within the GMA zoned Large-Scale (AG-1) and Small Scale Agriculture (AG-2) and lands within the SMA zoned Agriculture (AG). The above zoning districts implement the following land use designations: Large-Scale Agriculture; Small-Scale Agriculture and Agriculture.

**180. Uses Allowed Outright and Expedited Review Uses – Agricultural Land**

- (A) The uses listed in "Uses Allowed Outright, All Land Use Designations Except, Open Space" (Section 070) are allowed without review on lands designated Large-Scale Agriculture, Small-Scale Agriculture, ~~or SMA Agriculture.~~
- (B) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Large-Scale Agriculture, Small-Scale Agriculture, ~~or SMA Agriculture.~~

**190. Review Uses**

- (1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620):
  - (a) New cultivation, subject to compliance with Sections 540 through 590, and upon demonstration that the landowner has sufficient water to support the use. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
  - (b) Agricultural structures, ~~except buildings,~~ in conjunction with agricultural use, including new cultivation.
  - (c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Section 152(A)).
  - (d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.
  - (e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

- (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all detached accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
  - (B) The height of any individual accessory building shall not exceed 24 feet.
- (f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
- (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all detached accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
  - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
  - (C) The height of any individual accessory building shall not exceed 24 feet.
- (g) The temporary use of a mobile-manufactured home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to the guidelines for hardship dwellings in Section 152(B).
- (h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:
- (A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.
  - (B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (h)(C)(iv) below; and
  - (C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i)<sup>1</sup> The subject tract produced at least \$80,000 ~~for \$60,000 if not on High Value Farmland as defined by Section 7.05(D)(1) and (2) of the County Zoning Ordinance~~ in gross annual income from the sale of farm products in the last two years, or three of the last five years. (The cost of purchased livestock shall be deducted when determining the gross annual income);

~~(ii) The above stated 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 in 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year.~~

~~(iii)<sup>1</sup> The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection 190(1)(h)(C)(i) above.~~

~~(iii) Size of farm or ranch, including all land in the same ownership.~~

~~(iv) Type(s) of agricultural uses (crops, livestock) and acreage.~~

~~(v) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.~~

~~(vi) Annual Income. The farm or ranch, and all its constituent parcels, must 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 in 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year. This determination can be made using the following formula:~~

$$\frac{(A)(B)(C)}{I} = I$$

~~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 = Annual income~~

(i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling ~~which that~~ is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria ~~listed in Section 540(1)(e)(A). for~~

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~~(i) & (ii) Adopted June 21, 2004 – HRC Ordinance #257~~

~~use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).~~

- (j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally created and existing parcel.
- (k) On lands designated 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 190(1)(h)(C).
- ~~(l) Construction, reconstruction or modifications of roads not in conjunction with agriculture.~~
- ~~(lm)~~ Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(HI)). 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).
- ~~(ln)~~ Structures associated with hunting and fishing operations.
- ~~(lo)~~ Towers and fire stations for forest fire protection.
- ~~(lp)~~ 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 9 months; and
  - (C) The housing will-shall 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.

(pe) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices or forest practices on surrounding lands;

(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;

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Section 150(1), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Section 310;

(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 designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland within 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 10 days to comment prior to a decision.

~~(f) On parcels in Small Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Section 165 (B). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, this provision will apply to parcels 80 acres or larger.~~

(qs) Life estates, pursuant to Section 210.

(rf) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation and zoning maps and listed in Section 225, below and subject to Section 165(B) and Article 18, County Subdivision Ordinance.

(su) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165(C)).

(~~tv~~) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(~~uw~~) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).

(~~vx~~) ——— Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(~~wy~~) Commercial events, subject to the guidelines in "Commercial Events" (Section 152 (~~J~~ ~~K~~)).

(~~x~~) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162).

- (2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620).

\_\_\_\_\_ The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of Section 270(2)(~~yx~~).

(b) Forest uses and practices as allowed in Section 270(2)(~~zy~~).

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) ~~Income capability~~ Average income. The farm or ranch, and all its contiguous parcels, must ~~be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation~~ 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 can be made using the following formula:

$$(A)(B)(C) = I$$

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

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Section 190(2)(c)(C) above.

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(D) Minimum parcel size of 40 contiguous acres.

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

- (f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Section 152(A)).
- (g) 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 2(h) or 2(i), below.
- (h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:
  - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.
  - (B) The height of any individual accessory building shall not exceed 24 feet.
- (i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
  - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 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.
  - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
  - (C) The height of any individual accessory building shall not exceed 24 feet.
- (j) Home occupations ~~and cottage industries~~ pursuant to Section 152(E). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- (k) Bed and breakfast inns subject to Section 152(F, G). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- (l) Fruit ~~stands~~ and produce stands ~~upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.~~

- (m) Aquaculture.
- (n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.
- (o) Utility facilities necessary for public service upon a showing that:
  - (A) There is no alternative location with less adverse effect on Agriculture lands.
  - (B) The size is the minimum necessary to provide the service.
- (p) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.
- (q) Community facilities and non-profit facilities related to agricultural resource management.
- (r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H I)). 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).
- (s) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
- (t) Public Recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 620.
- (u) Road and railroad construction and reconstruction.
- (v) 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.
- (w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home manufactured dwelling, tiny house on a trailer, or similar structure in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).

- (x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (152 (D)).
- (z) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (aa) Disposal sites managed and operated by the Oregon 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, subject to compliance with the guidelines in Section 152(J).

**200. Review Uses with Additional Approval Criteria – Large-Scale or Small-Scale Agriculture Designations.**

- (1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620) and Section 220.
  - (a) Construction, reconstruction, or modification of roads, Utility facilities and railroads necessary for public service upon a showing that:
    - (A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and
    - (B) The size is the minimum necessary to provide the service.
  - (b) Home occupations ~~or cottage industries~~ in existing residential or accessory structures, subject to Section 152(~~BE~~).
  - (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.~~
  - (d) Wineries and cideries, in conjunction with on-site ~~viticulture vineyard or orchard~~, upon a showing that sales processing of wine or cider ~~are is~~ from ~~agricultural products grown or processed~~ fruits harvested on the subject farm ~~or and in~~ the local region.
  - (e) Wine or cider sales and ~~/~~ tasting rooms, in conjunction with an on-site winery or cidery.

- (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.
- (g) Exploration, development and production of mineral and geothermal resources subject to Section 520.
- (h) 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.
- (i) Aquaculture.
- (j) Recreation development, subject to the Recreation Intensity Class provision from Section 610 ~~and the Recreation Development Plan (Management Plan, Part III, Chapter 1).~~
- (k) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.
- (l) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.
- (m) Bed and breakfast inns in single-family dwellings, subject to Section 152(~~F~~ G) and provided that the residence:
  - (A) Is included in the National Register of Historic Places; or
  - (B) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon State land use regulations protecting historic structures.
- (n) Non-profit, environmental learning or research facilities.
- (o) Expansion of existing schools or places of worship.
- (p) 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 the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Section 152 (~~G~~ H)).
- (q) Disposal sites managed and operated by the Oregon Department of Transportation,

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, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152 (FJ)).

**210. Approval Criteria for Life Estates – Large-Scale or Small-Scale Agriculture Designations**

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Section 040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Sections 520 through 620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- (1) The proposed dwelling is in conjunction with agricultural use, using guidelines in Section 190(1)(h).
- (2) Upon termination of the life estate, the original or second dwelling shall be removed.

**220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture**

Uses identified in Section 200(1) may be allowed only if they meet both of the following criteria:

- (1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and
- (2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

**225. Dimensional Requirements**

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownerships must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
  - (a) GMA:

(A) Large-Scale Agriculture (AG-1) 40 acre.

(B) Small-Scale Agriculture (AG-2) 20 acre.

(b) SMA: Agriculture (AG) 40 acres for new residences. However, new land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165-(B))

(3) In the General Management Area, compliance with the Agricultural Buffer requirement listed under Section 150 (1) (a) through (fg).

(4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (See Sections 520-(3)-(e)) or SMA KVA guidelines 530-(2)(i). See Section 190(1)(e) and (f) and 190(2)(h) and (i) for accessory building height limits.

(5) Setback minimums:

(a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line whichever is greater. 60 feet from the centerline of any arterial street, or 20 feet from the right-of-way line, whichever is greater.

(b) Rear: 20 feet.

(c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.

(d) Accessory farm buildings may be located within 10 feet of the rear property lines.

(e) Setbacks from streams: Compliance with provisions in Sections 560, ~~570~~ and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).

(f) Off-street parking for residential uses shall be provided.

(g) Lot width and depth: None required.

(h) Vision clearance: Vision clearance shall be 35 feet.

(i) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

**250. Forest Zones (F-1) (F-2) (F-3) (F)**

Sections 250 through 325 apply to lands within the GMA planned and zoned Commercial Forest Land (F-1), Large Woodland (F-2) and Small Woodland (F-3) and lands within the SMA zoned Forest (F). The above zoning districts implement the following land use designations: Commercial Forest Land, Large Woodland, Small Woodland and SMA Forest.

**260. Uses Allowed Outright and Expedited Review Uses -- Forest Land**

- (A) The uses listed in Section 070 are allowed without review on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.
- (B) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

**270. Review Uses**

- (1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620):

~~(a) On lands designated Large Woodland, a single family dwelling upon a demonstration that all of the following conditions exist:~~

~~(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.~~

~~(B) The subject parcel has been enrolled in Oregon's forest assessment program.~~

~~(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry and the Director. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.~~

~~(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.~~

~~(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on~~

~~Forest Land" (Section 310) and "Approval Criteria for Fire Protection in Forest Zones" (Section 300).~~

~~(F) 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 parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large Scale or Small Scale Agriculture.~~

- (ab) On lands designated Small Woodland, one single-family dwelling on a legally created and existing parcel upon the parcel's enrollment in Oregon's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Sections 300 and 310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.
- (be) One single-family dwelling on lands designated Small Woodland if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm pursuant to Section 190(1)(h). The siting of the dwelling shall comply with Section 300310.
- (cd) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which it was approved has concluded.
- (de) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.
- (ef) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~or~~ natural resources, subject to the guidelines in "Resource Enhancement Projects" (152 (H)). 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).
- (fg) Structures associated with hunting and fishing operations
- (gh) Towers and fire stations for forest fire protection.

~~(i) Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" (Section 300).~~

(hj) ——— Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the "Approval Criteria for Fire Protection" (Section 300) and the standards in "Agricultural Buildings" [Section 152(A)].

~~(ik)~~ ——— Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(l) or (1)(m) below.

(jl) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (Section 310) and "Approval Criteria for Fire Protection" (Section 300) and the following additional standards:

(A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.

(B) The height of any individual accessory building shall not exceed 24 feet.

~~(km)~~ Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (Section 310) and "Approval Criteria for Fire Protection" (Section 300) and the following additional standards:

(A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 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.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

~~(C)(C)~~ ——— The height of any individual accessory building shall not exceed 24 feet.

(l) On lands designated Commercial Forest or Large Woodland with a dwelling that was legally established and not discontinued, the temporary use of a manufactured

home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to the guidelines for Hardship Dwellings in “Temporary Use – Hardship Dwelling” (Section 152(B)) and the “Approval Criteria for the Siting of Dwellings on Forest Land” (Section 310) and “Approval Criteria for Fire Protection-” (Section 300).

~~(m)~~ On lands designated Small Woodland, tThe temporary use of a ~~mobile-manufactured~~ home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to Sections 152(B), 300 and 310.

~~(n)~~ A second single-family dwelling on lands designated Small Woodland for a farm operator's relative, subject to Sections 190(1)(k), 300 and 310.

~~(o)~~ Private roads serving a residence on the subject parcel, subject to Sections 300 and 310.

~~(p)~~ Recreation development, subject to Section 610 and the ~~Recreation Development Plan (Management Plan, Part III, Chapter 1). Recreation Intensity Class provision from Section 610.~~

~~(r)~~ ~~Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.~~

~~(q)~~ Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use on the subject farm.

(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 agricultural unit. Seasonal use shall not exceed nine months.

~~(C)~~ ~~(C)~~—The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

~~(D)~~ The housing is subject to the “Approval Criteria for the Siting of Dwellings on Forest Land;” (Section 310) and “Approval Criteria for Fire Protection” (Section 300) in this chapter.

~~(t)~~ On lands designated Commercial Forest Land, a temporary ~~mobile-manufactured~~ home, tiny house on a trailer, or similar structure, in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forestland from fire. The ~~mobile~~

~~manufactured home, tiny house on a trailer, or similar structure~~ must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the ~~mobile home~~manufactured home, tiny house on a trailer, or similar structure is subject to Sections 300 and 310.

~~(u) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development". If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.~~

~~(sv)~~ New cultivation, subject to compliance with Sections 540, and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.

~~(t)~~ Agricultural structures, except buildings, in conjunction with agricultural use, including new cultivation, subject to the "Approval Criteria for Fire Protection" (Section 300) in this chapter.

~~(uw)~~ Life Estates on lands designated ~~Large or~~ Small Woodland, pursuant to Section 320.

~~(vx)~~ Land divisions in Small Woodland, Commercial Forest Land and Large Woodland zones, subject to the minimum lot sizes in Section 325(2), Section 165(B) and Article 18, County Subdivision Ordinance.

~~(wy)~~ Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165(C)).

~~(xz)~~ Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

~~(yaa)~~ Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152(D)).

~~(zbb)~~ Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

~~(aaee)~~ Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (Section 152(J K)).

~~(bbdd)~~ Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162).

(2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:

(a) Any use listed in Section 190(2).

(b) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (2)(~~yx~~), below.

~~(c) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry, or other designated forest practices review agency including the following:~~

~~(A) The following information, in addition to the site plan requirements of Section 080, shall be included on the site plan:~~

~~(i) Boundary of proposed commercial forest practice.~~

~~(ii) Location of proposed rock or aggregate sources.~~

~~(iii) Timber types.~~

~~(iv) Harvest units.~~

~~(v) Silvicultural prescriptions.~~

~~(vi) Road and structure construction and/or reconstruction design.~~

~~(vii) Major skid trails, landings, and yarding corridors.~~

~~(viii) Commercial firewood cutting areas.~~

~~(ix) Existing and proposed rock pit development plans.~~

~~(x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.~~

~~(B) A discussion of slash disposal methods.~~

~~(C) A reforestation plan as reviewed by the Oregon Department of Forestry.~~

(~~dc~~) Railroad and road construction or reconstruction.

- (~~ed~~) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Areas.
- (~~fe~~) Silvicultural nurseries.
- (~~gf~~) Utility facilities for public service upon a finding that:
  - (A) There is no alternative location with less adverse effect on Forest Land, and
  - (B) The size is the minimum necessary to provide the service.
- (~~hg~~) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (~~H I~~)). 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).
- (~~ih~~) Fish hatcheries and aquaculture facilities.
- (~~ji~~) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 620.
- (~~kj~~) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:
  - (A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forestlands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.
  - (B) The subject parcel ~~has-been~~is enrolled in the state's forest assessment program.
  - (C) A plan for management of the parcel ~~has-been~~is approved by the Oregon Department of Forestry, and the Director. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.
  - (D) There are no other dwellings on the parcel that are vacant or currently occupied by

persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with all applicable building code and fire protection guidelines.

(F) 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 operations are entitled to carry on accepted agricultural or forest practices.

(~~h~~k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(m) or (2)(n), below.

(~~m~~l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.

(B) The height of any individual accessory building shall not exceed 24 feet.

(~~m~~n) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 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.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(~~o~~n) Home occupations ~~and cottage industries~~ pursuant to Section 152(E).

(~~p~~o) Temporary portable facility for the processing of forest products.

(~~q~~p) Towers and fire stations for forest fire protection.

- (~~rq~~) Community facilities and nonprofit facilities related to forest resource management.
- (~~sr~~) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.
- (~~ts~~) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home manufactured dwelling, tiny house on a trailer, or similar structure in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).
- (~~ut~~) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (~~vu~~) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).
- (~~wv~~) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (~~xw~~) Disposal sites managed and operated by the Oregon Department of Transportation, 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 Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152(~~I J~~)).
- (~~yx~~) Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:
  - (A) A Stewardship Plan shall be submitted and deemed complete by the Planning Director and submitted to the Forest Service for Subsection 270(2)(zy)(C) below.
  - (B) Clearing trees for new agricultural use shall be limited to 15 acres.
  - (C) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of Subsection 270(2)(yx)(D)(i-iv) -below and subject to guideline Subsection 270(2)(yx)(I) below.
  - (D) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:
    - (i) Scenic Resource guidelines in Subsection 270(2)(zy)(D)(i) and (vii).

- (ii) Applicable guidelines of Sections 550, 600 and 620.
  - (iii) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.
  - (iv) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.
- (E) The Forest Service shall send the review statement to the Planning Director. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the Planning Director.
- (F) The Planning Director will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.
- (G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or Planning Director until a decision on the new agricultural use is issued by the Planning Director.
- (H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.
- (I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.
- (zy) Forest practices in accordance with an approved forest practices application (see Section 080) and subject to the additional guidelines in Section 270.
- (A) The following information, in addition to general site plan requirements (Section 080) shall be required:
- (i) Delineate the following on a recent aerial photo or detailed map:
    - (I) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be

used, code each on the photo.

- (II) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.
  - (III) Road and structure construction ~~and~~/or reconstruction location.
  - (IV) Location of proposed rock or aggregate sources.
  - (V) Major skid trails, landings, and yarding corridors.
  - (VI) Commercial firewood cutting areas.
  - (VII) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.
- (ii) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.
  - (iii) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in Subsections 270(2)(zy)(D) and ~~Section 270(2)(z)(E)~~ below.
  - (iv) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.
  - (v) Road and structure construction ~~and~~/or reconstruction design.
  - (vi) Existing and proposed rock pit development plans.
  - (vii) A discussion of slash disposal methods.
  - (viii) A reforestation plan as reviewed by the appropriate state forest practices agency.
- (B) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.
  - (C) Stewardship Plan Requirements: The following information, in addition to

the applicable portions of the forest practice application requirements above and general site plan requirements (Section 080) shall be provided:

- (i) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.
- (ii) Describe the time frame and steps planned to reach the long term goals.
- (iii) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and ~~for~~ forest health. The following shall be addressed:
  - (I) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.
  - (II) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.
  - (III) Give a clear explanation of how a deviation from the applicable guidelines may better achieve forest health objectives
  - (IV) Give a clear explanation of how and why the proposed activities will lead-move the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.
- (iv) For clearing trees for new agricultural use, the following shall be addressed in addition to Subsection 270(2)(zy)(C)(i) and (ii) above:
  - (I) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.
  - (II) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in Subsection 270(2)(yx)(D)(i-iv) below.
  - (III) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

- (IV) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.
- (D) For forest practices, the following scenic resource guidelines shall apply:
- (i) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table in Section 530(2)(c).
  - (ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will assist (as available) in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.
  - (iii) In the western portion (to White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will assist (as available) in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.
  - (iv) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in Subsection 270(2)(zy)(E)(i) through (iii) below.
  - (v) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in Subsection 270(2)(zy)(E)(i) through (iii) below.
  - (vi) The maximum size of any created forest opening is set forth by the “Desired” vegetation type in the Forest Structure and Pattern Table.
- (I) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

- (II) 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.
- (vii) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from ~~a key viewing area~~ KVAs.
- (E) Forest practices shall maintain the following in addition to applicable natural resources guidelines in Section 600.
  - (i) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree 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.
  - (ii) 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 Subsection 270(2)(zy)(D)(vi) above.
  - (iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.
  - (iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall ~~show and prove~~ demonstrate why a deviation from the snag and down wood requirements is required.

**DESIRED FOREST STRUCTURE AND PATTERN**

1	2	3		4		5	6	7
<b><u>Vegetation Type#</u></b>	<b><u>Forest Structure</u></b> (Average % total canopy closure (cc))*	<b><u>Typical Forest Openings-s Size</u></b> <b><u>Disturbance caused</u></b>		<b><u>Percent Openings at One Time</u></b>		<b><u>Leave Trees</u></b> Includes all available remnant old forest	<b><u>Average Down Wood</u></b> Pieces 30 ft long per acre (scattered)	<b><u>Average Snags</u></b> (Conifers) No. per acre Snags are 20-40 ft in height
		<u>Historic (Natural)</u>	<u>Desired</u>	<u>Historic (Natural)</u>	<u>Desired</u>			
<b><u>West Conifer</u></b>	60-80% canopy closure  Understory layer variable (0-60% of total cc)	Variable sizes with mosaic pattern, irregular shapes  Mosaic fire 1-100acres  Catastrophic fire over 100 acres	Retain forested character Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs)  All openings 1 acre or less on National Forest land and all Open Space LUD  Openings retain 15 - 40 % canopy closure	10%(mosaic fire) up to 55%(catastrophic fire)  Intense fire return interval is 300 yrs	Not to exceed 8% for West <del>Coniferous</del> Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting  Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings.	Leave 15% of existing trees per acre throughout opening and in clumps.  Include 3 trees per acre of the largest size trees available	18 - 25 pieces greater than 20" dbh	10 snags at 10" -20" dbh, and 7 snags greater than 20" dbh
<b><u>East Conifer</u></b> (Ponderosa Pine/Douglas fir)	40-80% canopy closure  Understory layer less than 25% of total cc	Few Openings due to low intensity fires. ¼ to 2 acres	Openings less than 1 acre  Openings have 0 - 40% canopy closure  Openings widely dispersed	1 -10%	1 - 10%  (% by vegetation type)	No leave trees required	3 - 6 pieces greater than 20" dbh	5 snags at 10"-20" dbh and 3 snags greater than 20" dbh
<b><u>Ponderosa Pine/ Oregon Oak</u></b>	25-60% canopy closure  Understory layer greater than 25% of total cc.	Most natural openings due to poor soil.  Disturbance openings few	Openings less than 1 acre Openings have 0 - 25% canopy closure Openings widely dispersed	1 -10%	1 - 10%  (% by vegetation type)	No leave trees required	1 - 3 pieces greater than 20" dbh	5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh Oak snags can be counted if already dead or partially dead

# Map available at the Forest Service National Scenic Area Office

\* Does not apply to openings.

Dbh: Diameter at Breast Height

**280. Review Uses with Additional Approval Criteria – Commercial Forest Land, or Large or Small Woodland Designations**

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Sections 520 through 620) and Section 290:

- (1) ~~Construction, reconstruction, or modification of roads, utility facilities, and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.~~
- (2) Home occupations ~~or cottage industries~~ in an existing residence or accessory structure, subject to the guidelines in Section 152(E).
- (3) 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.~~
- (4) Wineries and cideries, in conjunction with an on-site viticulture vineyard or orchard, upon a showing that ~~sales of wine are from agricultural products grown or processed on the subject farm or in the local region.~~ processing of wine or cider is from fruits harvested on the subject farm and the local region.
- (5) Wine or cider sales and s/tasting rooms, in conjunction with an on-site winery or cidery.
- (6) 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.
- (7) Exploration, development, and production of mineral and geothermal resources, subject to Section 520.
- (8) Aquaculture.
- (9) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.
- (10) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.
- (11) Expansion of existing nonprofit group camps, retreats, or conference centers.
- (12) Bed and breakfast inns in single-family dwellings, subject to Section 152(F,G) and provided that the residence:

- (a) Is included in the National Register of Historic Places, or
  - (b) Is identified and protected under local landmark status as approved pursuant to Oregon State land use regulations protecting historic structures.
- (13) Nonprofit, environmental learning or research facilities.
  - (14) On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Section 152-(~~G H~~)).
  - (15) Disposal sites managed and operated by the Oregon Department of Transportation or the 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, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152 (~~I J~~)).

**290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland**

Uses identified in Section 280 may be allowed only if they meet the following criteria:

- (1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large Scale or Small Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;
- (2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;
- (3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and
- (4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Section 300.

### 300. Approval Criteria for Fire Protection in Forest Designations

All uses in the General Management Area, as specified, shall comply with the following fire safety guidelines:

- (1) All buildings shall be surrounded by a maintained ~~fuel break~~defensible space of at least 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees. Fuel breaks shall be adjusted to account for site slope, to protect riparian vegetation and other resources, or as recommended by local fire districts, conservation districts, or other professional.
- (2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).
- (3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.
- (4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent without a waiver to do so. Turnouts shall be provided at a minimum of every 500 feet and at the building site. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, the County Forester and the Oregon Department of Forestry.
- (5) Within one year of the occupancy of a dwelling, the Director shall conduct a review of the development to assure compliance with these guidelines.
- (6) ~~Telephone and power~~Utility supply systems shall be underground whenever possible.
- (7) Roofs of structures ~~should~~shall be constructed of fire-resistant materials such as metal, fiberglass, or asphalt shingle or tile. Roof materials such as cedar shake and shingle ~~should~~shall not be used.
- (8) Any chimney or stovepipe on any structure for use with a wood stove or fireplace should be equipped with a spark arrestor that includes at least one ~~screened with~~ no coarser than 1/84 inch mesh metal ~~screen~~ that is noncombustible and corrosion resistant ~~and should be equipped with a spark arrestor.~~
- (9) All structural projections such as balconies, decks and roof gables should be built

with fire resistant materials equivalent to that specified in the International Uniform Building Code. Structural projections shall be set back from slopes.

- (10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/84 inch mesh metal screen that is noncombustible and corrosion resistant.

### **310. Approval Criteria for Siting of Dwellings on Forest Land**

The approval of new dwellings and accessory structures on forest lands within the General Management Area shall comply with the following guidelines:

- (1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.
- (2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest uses, adjacent dwellings, or land productivity.
- (3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 3040 percent. Dwellings should be set back from slopes. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.
- (4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Section 150(2).

### **320. Approval Criteria for Life Estates in ~~Commercial Forest Land or Small or Large Woodland~~**

A landowner who sells or otherwise transfers real property on lands designated ~~Commercial Forest Land or Large or Small~~ Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated ~~Commercial Forest Land or Large or Small~~ Woodland may be allowed, subject to compliance with the guidelines in Sections 520 through 620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- (1) The proposed dwelling is in conjunction with agricultural use, using guideline 190(1)(h); or.
- ~~(2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 270(1)(a).~~
- ~~(23) On lands designated Small Woodland, t~~The proposed dwelling complies with guideline 270(1)(b); and :
- (34) Upon termination of the life estate, the original or second dwelling shall be removed.

### **325. Dimensional Requirements**

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Articles 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
  - (a) GMA:
    - (A) Commercial Forest Land (F-1) 80 acre.
    - (B) Large Woodland (F-2) 80 acre.
    - (C) Small Woodland (F-3) 40 acre.
  - (b) SMA: Forest (F) 40 acre for new residences. However, new land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165(B))
  - (c) SMA: No new dwellings shall be permitted on parcels of less than 40 contiguous acres.
- (3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through (fg).
- (4) Height Maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (see Sections 520(3)) or SMA KVA guidelines 530 (2)(i). See Section 270(1)(~~l~~ j) and (~~m~~ k) and Section 270(2)(~~ml~~) and (~~nm~~) for

accessory building height limits.

(5) Setback minimums:

(a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.

(b) Rear: 20 feet.

(c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.

(d) Setbacks between buildings: 10 feet.

(e) Accessory farm buildings may be located within 10 feet of the rear property lines.

(f) Setbacks from streams: Compliance with provisions in Sections 560, ~~570~~ and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).

(g) Off-street parking for residential uses shall be provided.

(h) Lot depth: 330 feet.

(i) Vision clearance: Vision clearance shall be 35 feet.

(j) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

### **330. Open Space Zone (OS)**

Sections 330 through 345 apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

### **335. Uses Allowed Outright and Expedited Review Uses – Open Space**

- (A) The uses listed in "Uses Allowed Outright, GMA and SMA Open Space" (Section 070) are allowed without review on lands designated Open Space.
- (B) The uses listed in "Expedited Development Review Process" (Section 156) may be allowed with review through the expedited development review process on lands designated Open Space.

### **340. Review Uses – All Lands Designated Open Space**

- (1) The following uses may be allowed on lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620):
  - (a) Low intensity recreation, subject to Section 610 (2).
  - (b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources, subject to Section 345(2), Section 165(B) and Article 18, Co-nty Subdivision Ordinance.
  - ~~(c) Non-emergency repair and maintenance of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities that involve new ground disturbing activities or those which differ in depth and extent from past ground disturbance.~~
  - ~~(dc) (d) —~~Improvement, not including expansion, of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.
  - ~~(e) Removal of timber, rocks, or other materials for purposes of public safety.~~
  - ~~(e) Placement of structures for public safety.~~
  - ~~(fe)~~ Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (~~H~~ I)). 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).
  - ~~(gf)~~ Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(hg) Lot line adjustments, subject to compliance with the guidelines in "Lot Line Adjustments" (Section 165(C)).

(2) The following uses may be allowed on land designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands Landscape Setting:

- (A) All uses listed in Section 340 (1).
- (B) Livestock grazing.
- (C) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.
- (D) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.
- (E) Harvesting of wild crops.
- (F) Educational or scientific research.
- (G) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Sections 520 through 620).

(23) The following uses may be allowed on lands designated GMA-Open Space within state parks:

- (a) All uses listed in Section 340 (1).
- (b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.
- (c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.
- (d) Harvesting of wild crops.
- (e) Educational or scientific research.

~~(f) Commercial trapping.~~

- (g) The following uses may be allowed on lands designated Open Space on those portions of state park ownerships not suitable for major recreation facilities subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (Sections 520 through 620):

(A) All uses listed in Section 340(1).

~~(B)~~ Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

~~(B C)~~ Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

~~(C D)~~ Harvesting of wild crops.

~~(D E)~~ Educational or scientific research.

~~(E)~~ All those uses allowed in "All Lands Designated Open Space," Section 340(1).

(34) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Section 520 through 620) and when consistent with an open space plan reviewed and approved by the U.S. Forest Service pursuant to guideline (45) below:

(a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ~~and~~/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(~~H I~~)). These projects may include vegetation management and forest practices (subject to the forest practice guidelines of Section 270(2)(~~zy~~) for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) ~~and~~/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries)).

(c) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(d) Low intensity recreation uses, including educational and interpretive facilities, consistent with Section 620.

(e) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(45) In the Special Management Areas, an Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed and approved by the Forest Service. The Open Space plan shall include the following:

- (a) Direction for resource protection, enhancement, and management.
- (b) Review of existing uses to determine compatibility with Open Space values.
- (c) Consultation with members of the public and with agency and resource specialists.

(56) <sup>1</sup>Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:

- (a) Noxious weed infestation is new and eradication is still viable.
- (b) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:
  - 1. Displacement of native and traditionally gathered plants;
  - 2. Degradation of wildlife habitat and forage;
  - 3. Degradation or loss of agricultural uses of land, such as cropland or livestock forage;
  - 4. Limitation of recreation uses.
- (c) For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.
- ~~(d) Noxious weed is defined as those included on the official state noxious weed list of Oregon.~~

#### **345. Dimensional Requirements:**

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:

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<sup>1</sup> Adopted May 4, 1998 -- HRC Ordinance #220

(a) GMA:

(A) No minimum parcel size for lands designated Open Space (OS).

(B) Land divisions may be allowed to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(b) SMA: New land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165(B))

(3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 1510(1)(a through g).

(4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (see Sections 520(3)) or SMA KVA guidelines 530(2)(i).

(5) Setback minimums:

(a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.

(b) Rear: 20 feet.

(c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.

(d) Accessory farm buildings may be located within 10 feet of the rear property lines.

(e) Setbacks from streams: Compliance with provisions in Sections ~~570~~ 560 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).

(f) Off-street parking for residential uses shall be provided.

(g) Lot width and depth: None required.

(h) Vision clearance: Vision clearance shall be 35 feet.

### **350. Rural Residential Zone (RR)**

Sections 350 through 390 apply to lands within the GMA zoned Rural Residential (RR). The minimum lot sizes are shown on the NSA Land Use Designation Map and County Zoning Maps. The Rural Residential designation does not apply to lands in the SMA in Hood River County. The above zoning district implements the Residential Plan designation.

The following provisions from the Management Plan apply to the area designated Residential and zoned Rural Residential located west of the Hood River Urban area but east of Country Club Road: New development within the Rural Residential Landscape Setting shall be compatible with the Landscape Setting, but not necessarily visually subordinate.

### **360. Uses Allowed Outright and Expedited Review Uses – Residential Land**

- (1) The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space" (Section 070) are allowed without review on lands designated Residential.
- (2) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Residential.

### **370. Review Uses**

The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):

- (1) One single-family dwelling per legally created and existing parcel.
  - (A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Sections 150(1), and 310(1), and the notification requirements of Sections 190(1)(q p)(E) and 290(1); and
  - (B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Section 300.
- (2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) subsection 3 below.
- (3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for dwelling on any legal parcel are subject to the following additional

standards:

- (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.
- (B) The height of any individual accessory building shall not exceed 24 feet.
- (4) The temporary use of a mobile home, manufactured home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to Section 152(B).
- ~~(5) Construction or reconstruction of roads.~~
- ~~(6) On parcels 10 acres or larger designated Residential 5, or 20 acres or larger designated Residential 10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of Section 165.~~
- (57) New cultivation, subject to compliance with Sections 540 and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
- (6) Agricultural structures, in conjunction with agricultural use, including new cultivation.
- (78) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation or Zoning Maps, Section 165(B) and Article 18, County Subdivision Ordinance.
- (89) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165(C)).
- (910) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(H I)). 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).
- ~~(11) Agricultural structures, except buildings, in conjunction with agricultural use.~~
- (1012) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Section 152(A)).

- (1113) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (1214) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152(D)).
- (1315) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (1416) Commercial events, subject to the guidelines in "Commercial Events" (Section 152 (J K)).
- (1517) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162).

**380. Review Uses with Additional Approval Criteria – Residential Land**

The following uses may be allowed on lands in the General Management Area designated Rural Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620), and Section 390:

- (1) Accredited child-care centers on land designated 1-acre Residential or 2-acre Residential. A child-care center may be allowed in other Rural Residential designations within an existing church or community building.
- ~~(2) (2)~~ Schools within an existing church or community building.
- ~~(3) Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991.~~
- ~~(43) Construction and reconstruction of roads, utility facilities, and railroads.~~
- ~~(54) Home occupations and cottage industries in an existing residence or accessory structure, pursuant to Section 152(E).~~
- ~~(65) Fire stations.~~
- ~~(76) Recreation development, subject to compliance with the guidelines established for Recreation Intensity Classes in Section 610.~~
- ~~(87) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.~~
- ~~(98) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 152(F).~~

(10) Overnight accommodations in single family dwellings located on lands designated Rural Residential-5 or Residential-10, subject to the guidelines of Section 152(F).

~~(1149)~~ Wineries and cideries, in conjunction with an onsite ~~viticulture~~ vineyard or orchard, upon a showing that processing of wine or cider is from ~~grapes grown~~ fruits harvested on the subject farm ~~or~~ and in the local region.

~~(1240)~~ Wine or cider sales and/tasting rooms in conjunction with an on-site winery or cidery, under the following conditions:

(A) The use shall comply with the guidelines in "Home Occupations and Cottage Industries" (Section 152(E)), with the following exceptions:

- (i) The use may employ an unlimited number of outside employees.
- (ii) The wine or cider sales and /tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.
- (iii) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine or cider sales and /tasting room.
- (iv) The exterior space may be a veranda, patio, or other similar type of structure.

~~(1344)~~ Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

(14) Small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Section 152(H)).

### **390. Approval Criteria for Specified Review Uses on Lands Designated Rural Residential**

The uses identified in Section 380 may be allowed only if they meet all of the following:

- (1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.
- (2) The proposed use will not require public services other than those existing or approved for the area.

- (3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Section 150(1).
- (4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Section 300.

### **395. Dimensional Requirements**

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning or Subdivision Ordinances and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ~~ownership~~<sup>sownerships</sup> must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
  - (a) GMA: The minimum parcel sizes are shown on the County Zoning Maps and the NSA Land Use Designations Map. The minimum parcel size will vary according to its location on the Zoning Map and will range from one (1) to ten (10) acres.
- (3) Compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through ~~(f)~~.
- (4) Height maximum: 35 feet.
- (5) Setback minimums:
  - (a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street~~;~~ or 20 feet from the right-of-way line, whichever is greater.
  - (b) Rear: 20 feet.
  - ~~(c)~~ Side: Interior lot - 10 feet. Exterior side of corner lot - 45 feet from the center line of any street.
  - ~~(e) Between buildings - 10 feet.~~
- (6) Off-street parking for residential uses: For each dwelling there shall be two spaces not within the front setback.
- (7) Minimum width and depth requirements:
  - (a) Average lot width: 100 feet.
  - (b) Lot width at street: 50 feet.
  - (c) Average lot depth: 100 feet.
- (8) Vision clearance: 35 feet.

- |
- (9) Setbacks from streams: Compliance with provisions in Sections 560,~~570~~ and 600. If required, compliance with provisions in the following applicable Articles: Article 43 –Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
  - (10) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

#### **470. Public Recreation Zone (PR)**

Sections 470 through 505 apply to lands zoned Public Recreation (PR) within both the GMA and SMA. The above zoning district implements the Public Recreation land use designation.

#### **480. Uses Allowed Outright and Expedited Review Uses – Public Recreation**

- (1) The uses listed in "Uses Allowed Outright, All Land Use Designations Except Open Space" (Section 070) are allowed without review on lands designated Public Recreation.
- (2) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Public Recreation.

#### **490. Review Uses – Public Recreation Lands**

- (1) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620), and where applicable Section 610(5)(a) and (c) through (g):
  - (a) Publicly-owned, resource-based recreation uses consistent with [Recreation Intensity Class policies and guideline in Section 610](#).
  - (b) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this Section.
  - (c) New cultivation, subject to compliance with Sections 540 and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
  - (d) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162).
- (2) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," (Section 500), and (Sections 520 through 620):
  - (a) ~~Residences and accessory structures, limited to one~~ One single-family

dwelling for each existing parcel legally created prior to adoption of the first Management Plan on October 15, 1991. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

- (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 490(2)(c) below.
- (c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:
  - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.
  - (B) The height of any individual accessory building shall not exceed 24 feet.
- (d) Agricultural structures , except buildings, in conjunction with agricultural use.
- (e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Section 152-(A)).
- (f) Utility transmission, transportation, communication and public works facilities.
- (g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152-(H I)). 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).
- (h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152-(D)).

- (j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
  - (k) Commercial events, subject to the guidelines in "Commercial Events" (Section 152-~~J~~ K).
- (3) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with Section 500(1)~~(e)~~ and Article 18, County Subdivision Ordinance.
- (4) In the General Management Area, lot line adjustments may be allowed, subject to compliance with the guidelines in "Lot Line Adjustments" (Section 165C). Note that in the Special Management Area, lot line adjustments are not a review use, but are allowed under expedited review (see Section 156).
- (5) The following uses maybe allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):
- (a) Forest uses and practices as allowed in Section 270(2), except Forest Land Review Uses 270(2)~~(j)~~(ml)~~(mm)~~ and ~~(xw)~~.
  - (b) Public trails, consistent with Section 620.
  - (c) Public recreational facilities, consistent with Section 620.
  - (d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.
  - (e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (Section 190 (2)(c)) or Forest Land (Section 270(2)~~(kj)~~), or when shown to be necessary for public recreation site management purposes.
  - (f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(g) below.
  - (g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:
    - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 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.

(B) The height of any individual accessory building shall not exceed 24 feet.

- (h) Home occupations ~~and cottage industries~~, pursuant to Section 152(E).
- (i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ~~and/or~~ natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (~~H I~~)). 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).
- (j) Road and railroad construction and reconstruction.
- (k) Utility facilities for public service upon a showing that:
  - (A) There is no alternative location with less adverse effect on Public Recreation land.
  - (B) The size is the minimum necessary to provide the service.
- (n) Agricultural uses as allowed in Section 190(2), except Agricultural Land Review Uses in Section 190(2)(h),(i), (t) and (aa).
- (o) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a manufactured mobile home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).
- (p) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (q) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (r) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152-(D)).

**500. Approval Criteria for Non-Recreation Uses in Public Recreation Designation**

The uses identified in Section 490(~~1~~)(~~b~~)(2) and (3) may be allowed only if they meet the following criteria:

- (1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply

with this criterion may include on-site buffers, seasonal or temporary closures during peak recreation use periods, etc.

- (2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.
- (3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

### **505. Dimensional Requirements**

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning and Subdivision Ordinances and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of Article 18, County Subdivision Ordinance.
- (2) Minimum parcel size:
  - (a) The Public Recreation designation, within both the GMA & SMA, is implemented with the Public Recreation zone (PR).
  - (b) Within the GMA, there is no minimum acreage requirement for lands in the Public Recreation zone. However, land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.
  - (c) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan. No new dwellings shall be permitted on parcels less than 40 contiguous acres within the SMA.
- (3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through (fg).
- (4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements. ~~See Sections 520(3) -or SMA KVA guideline 530 (2)(i)-, and See~~ Section 490-(2)(c) and Section 490(5)(g) for accessory building height limit.
- (5) Setback minimums:

- (a) Front: 50 feet from the centerline of the road or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.
- (b) Rear: 20 feet.
- (c) Side: Interior lot - 10 feet. Exterior side of corner lot - 50 feet from the center line of any street.
- (d) Setbacks from streams: Compliance with provisions in Sections 560, ~~570~~ and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
- (e) Parking spaces, pursuant to provisions in Article 51 - Off-Street Parking and Loading.
- (f) Lot width and depth: None required.
- (g) Vision clearance: Vision clearance shall be 35 feet.
- (h) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

## 520. General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All Review Uses:

- (a) New ~~buildings and roads~~ development shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

- ~~(b)~~ (b) — ~~————~~ (b) — New buildings and expansion of existing development shall be compatible with the general scale ~~(height, dimensions and overall mass)~~ 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 include but are not limited to:

- (1) Application of the landscape setting design guidelines if applicable  
(2) 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.  
(3) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:  
(i) All finished above ground square footage;  
(ii) Total area of covered docks and porches;  
(iii) Attached garages;  
(iv) Daylight basements;  
(v) Breezeways, if the breezeway shares a wall with an adjacent building  
(vii) Dimensions, based on information from the application or on Assessor's records  
(4) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

- (c) ~~Project applicants~~ Landowners shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Section 520.

- ~~(d)~~ A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" Section 080(3). Supplemental requirements

~~for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.~~

- ~~(e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.~~
- ~~(f) 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 that blends with and emulates surrounding landforms to the maximum extent practicable.~~
  - ~~At a minimum, such reclamation plans shall include:~~
    - ~~(A) 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-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 catch 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.~~
    - ~~(B) Cross-Sectional drawings of the site showing pre-mining and post-mining grades.~~
    - ~~(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.~~
    - ~~(D) Description of drainage/erosion control features to be employed for the duration of the use.~~
    - ~~(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.~~
- ~~(g) 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 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:~~
  - ~~(A) Whether the proposed mining is subject to state reclamation permit requirements;~~

~~(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~~

~~(C) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements or any suggested modifications to comply with state reclamation requirements.~~

~~The Planning Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.~~

(2) Key Viewing Areas:

(a) The guidelines in this Section shall apply to proposed developments on sites topographically visible from key viewing areas.

(b) Each development shall be visually subordinate to its setting as seen visible from key viewing areas. New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive rare plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, new development siting shall comply with this guideline to the maximum extent practicable.

(c) Determination of potential visual effects and compliance with visual subordination policies shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

~~(d) The extent and type of a determination of conditions applied to the potential visual impact of a new development a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.~~

~~(A) Decisions shall include written findings addressing the following factors influencing potential visual impact, including but not limited to:~~

~~(i) The amount of area of the building site exposed to key viewing areas.~~

~~(ii) The degree of existing vegetation providing screening.~~

- (iii) The distance from the building site to the key viewing areas from which it is visible.
- (iv) The number of key viewing areas from which it is visible.
- (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
- (vii) Other factors the reviewing agency determines relevant in consideration of the potential impact.

(B) ~~Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:~~ The extent and type of conditions applied to a proposed development to achieve a visual subordination to its landscape setting shall be proportionate to its potential visual impacts as visible from key viewing areas. Conditions may include and shall be applied using the following priorities:

- (i) Screening by topography
- (ii) Siting (location of development on the subject property, building orientation, and other elements).
- (iii) Retention of existing vegetation on the applicant's property.
- (iv) Design and building materials (color, reflectivity, size, shape, height, architectural and design details and other elements).
- (v) New landscaping on the applicant's property
- (v) New berms or other recontouring on the applicant's property, where consistent with other applicable provisions

~~(e) New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.~~

- (fe) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.
- (gf) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in Section 520(3).
- (hg) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as ~~visible~~ seen from Key Viewing Areas. ~~Variations to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.~~
- ~~(i) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:
 
  - ~~(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and~~
  - ~~(B) There is no practicable alternative means of altering the building without increasing the protrusion.~~~~
- (jh) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:
  - (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in Section 520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.
  - (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction. If, after five years, the vegetation has not achieved a size sufficient to screen the development, additional screening may be

required by the local government to make the development visually subordinate.

- (C) Unless as specified otherwise by provisions in Section 520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
- (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in Section 520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(ki) Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Commercial Forest, Large Woodland, or Small Woodland shall meet both scenic guidelines and fuel break defensible space requirements in Section 300(1).

(lj) Unless expressly exempted by other provisions in Section 520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors approved by the reviewing agency shall be included as a condition of approval. ~~The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.~~

(mk) The exterior of buildings on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. Continuous surfaces of glass shall be limited to ensure visual subordination. The *Scenic Resources Implementation Handbook* will include a list of recommended exterior materials. ~~These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.~~

~~(n) In addition to the site plan requirements in "Review Uses" Section 080(3), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of~~

plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

~~(e)~~ For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to Sections 520(1)(f) and 520(2)(d) of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

~~(pl)~~ Any exterior lighting shall be directed downward and sited, hooded, and limited in intensity, shielded such or hooded in a manner that it is not prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

~~(qm)~~ Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors ~~or a list of acceptable colors~~ approved by the reviewing agency shall be included as a condition of approval. ~~The Scenic Resources Implementation Handbook will include a recommended palette of colors.~~

~~(rn)~~ Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands ~~seen~~ visible from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

~~(so)~~ New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

~~(tp)~~ New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

- (ug) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:
  - (A) The facility is necessary for public service;
  - (B) The break in the skyline is seen-visible only in the background; and
  - (C) The break in the skyline is the minimum necessary to provide the service.
  
- (vt) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:
  - (A) The facility is necessary for public service; and
  - (B) The break in the skyline is the minimum necessary to provide the service.
  
- ~~(ws) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.~~
  
- (xt) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site footprint shall be used.
  
- (yu) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.
  
- ~~(z) All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:
  - ~~(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:
    - ~~(i) Existing and proposed final grades.~~~~~~

~~(ii) Location of all areas to be graded, with cut banks and fill slopes delineated.~~

~~(iii) Estimated dimensions of graded areas.~~

~~(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:~~

~~(i) Its purpose.~~

~~(ii) An estimate of the total volume of material to be moved.~~

~~(iii) The height of all cut banks and fill slopes.~~

~~(iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)~~

~~(v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.~~

~~(vi) A description of any other interim or permanent erosion control measures to be used.~~

~~\_\_\_\_\_ (aa) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:~~

~~\_\_\_\_\_ (A) The site plan requirements for such proposals pursuant to Section 520 have been met.~~

~~\_\_\_\_\_ (B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.~~

~~\_\_\_\_\_ (C) A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 520(1)(f) and (g)~~

- ~~(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:~~
  - ~~(i) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.~~
  - ~~(ii) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.~~
  - ~~(iii) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.~~
  - ~~(iv) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.~~
  - ~~(v) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.~~
  - ~~(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.~~
- ~~(bb) Unless addressed by Section 520(2)(aa), new production and/or development of mineral resources may be allowed upon a demonstration that:~~
  - ~~(A) The site plan requirements for such proposals pursuant to this chapter have been met.~~
  - ~~(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.~~
  - ~~(C) A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 520(1)(f) and (g).~~
- ~~(cc) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing~~

~~area shall be established before approval. The interim time period shall be based on site specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.~~

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

(3) All Review Uses within the following Landscape Settings shall comply with the following applicable guidelines: (See Landscape Settings Map.)

(a) Pastoral

(A) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting ~~or commonly found in the area. Such Examples of native species species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge) are identified in the Scenic Implementation Handbook as appropriate for the area.~~

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening. Variations may be granted to the guideline when development is directly adjacent or adjoining a landscape settings where coniferous trees are not common or appropriate (as identified in the Scenic Implementation handbook), and tree species ultimately selected for winter screening are natives

characteristic to that setting.

(C) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Section 610), occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) Structure height shall remain below the forest canopy level.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting. ~~Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas)~~ Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) Structure height shall remain below the tree canopy level ~~in wooded portions of~~ the dominant vegetation types of this setting.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development.

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. ~~Such species include Oregon white oak,~~

~~ponderosa pine, and Douglas fir. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.~~

- (ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

- (iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

For treeless portions or portions with scattered tree cover:

- (iv) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.
- (v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.
- (vi) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(C) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Section 610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Rural Residential

- (A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.
- (B) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to Section 520(3)(h) - the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be

employed to achieve visual subordination for new development and expansion of existing development:

- (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
  - (ii) At least half of any trees planted for screening purposes shall be species native to the setting or ~~commonly found~~ species identified in the [Scenic Implementation handbook as appropriate for the area](#).
  - (iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.
- (C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as small scenic overlooks).
- (D) The following provisions, from the Management Plan, apply to the area designated Residential and zoned Rural Residential, located west of the Hood River Urban area but east of Country Club Road: New development within the Rural Residential Landscape Setting shall be compatible with the Landscape Setting, but not necessarily visually subordinate.

New uses and developments in these particular areas are subject to only the following guidelines for scenic resources: 520(1)(a) through ~~(gc)~~; 520(2) ~~(xt), and (z)~~; ~~depending upon which setting the subject parcel is located in:~~ 520(3)(d)(A), (C), and (D); and 520(4)(a),(d),(e), and (f).

- (e) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

- (A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
- (B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.
- (C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(f) River Bottomlands

(A) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

- (i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.
- (ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments ~~are is~~ encouraged to maximize the percentage of planted screening vegetation native to this setting. ~~Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.~~
- (iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening. Variances may be granted to this guideline when development is directly adjacent to adjoining a landscape setting where coniferous trees are not common or appropriate (as identified in the Scenic Implementation handbook), and tree species ultimately selected for winter screening are natives characteristic to that setting.

(B) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate ~~intensity and/or~~ high-intensity recreation uses may be compatible, provided that:

- (i) their designs emphasize retention ~~and~~ or enhancement of native riparian communities,
- (ii) structures and parking areas are visually subordinate, and
- (iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(g) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be

screened so it is not seen-visible from Key Viewing Areas, to the maximum extent practicable.

- (B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.
- (C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.
- (D) All buildings shall be limited in height to a maximum of 1 and 1/2 stories.
- (E) All structures' exteriors shall be non-reflective.
- (F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors found in the surrounding landscape, unless public safety concerns or federal or state highway guidelines require otherwise.
- (G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(h) Developed Settings and Visual Subordination Policies

GMA policies to protect key viewing area viewsheds require that all new development on lands seen-visible from key viewing areas be visually subordinate to its landscape setting, except for "specified developed settings that are not visually sensitive."

Gorge-wide, three landscape settings are considered developed settings within this context: Rural Residential, Residential, and Village (No Residential or Village Landscape Settings occur in Hood River County). Of all NSA GMA lands in these three settings, six particular areas that are not visually sensitive have been identified. Only one of these areas is located in Hood River County. New development in this setting shall be compatible with the setting, but not necessarily visually subordinate. New developments in this setting these settings are exempt from the color and siting guidelines in the Key Viewing Areas Section of this chapter. This area is:

- (A) West of Hood River Urban Area, east of Country Club Road (Rural Residential)

- (4) All Review Uses within Scenic Travel Corridors shall comply with the following applicable guidelines:
- (a) For the purposes of implementing this Section, the immediate foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Scenic Travel Corridor roadway.
  - (b) All new buildings and alterations to existing buildings shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Section 150(2). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.
  - (c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway shall comply with guideline (4)(b) above to the maximum extent practicable.
  - (d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:
    - (A) An evaluation of potential visual impacts of the proposed project as seen visible from any Key Viewing Area;
    - (B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.
  - (e) When evaluating possible locations for under-grounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for under-grounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.
  - (f) New production and/or development of mineral resources exploration, development (extraction or excavation) and production of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and

associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Section ~~520(2)(dd)~~ 150(7) and (8).

- (g) Expansion of existing quarries may be allowed pursuant to Section ~~520(2)(aa)~~ 150(5). Compliance with visual subordination requirements shall be achieved within time frames specified in Section ~~520(2)(ee)~~ 150(7) and (8).

### **530. Special Management Area Scenic Review Criteria**

#### **(1) SMA Design Guidelines Based on Landscape Settings**

(a) The following guidelines apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas ~~seen-visible~~ from KVAs as well as areas not ~~seen-visible~~ from KVAs):

(A) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(i) The use of plant species ~~common-native~~ to the landscape setting shall be encouraged. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area. The use of agricultural plant species in rows, as commonly found in the landscape setting, is encouraged.

(B) Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.

(i) Buildings ~~shall be encouraged~~ designed to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting shall be encouraged.

(ii) Use of plant species native to the landscape setting shall be encouraged. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area. Where non-native plants are used, they shall have native-appearing characteristics.

(C) River Bottomlands: River Bottomlands shall retain the overall visual character of a floodplain and associated islands.

(i) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(ii) Use of plant species native to the landscape setting shall be encouraged. ~~W~~Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area. Where non-native plants are used, they shall have native-appearing characteristics.

(D) Gorge Walls, Canyonlands, and Wildlands: New developments and land uses shall retain the overall visual character of the natural-appearing landscape.

- (i) Structures, including signs, shall have a rustic appearance, use nonreflective materials, have low contrast with the surrounding landscape, and be of a Cascadian architectural style.
- (ii) Temporary roads shall be promptly closed and revegetated.
- (iii) New utilities shall be below ground surface, where feasible.
- (iv) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(2) SMA Guidelines for Development and Uses Visible from KVAs

- (a) The guidelines in this Section shall apply to proposed developments on sites topographically visible from key viewing areas.
- (b) New developments and land uses shall be evaluated for adverse effects, including cumulative effects, to ensure that the required scenic standard is met and that scenic resources are not adversely affected, based on the degree of visibility from key viewing areas. Adverse effects shall be prohibited.
- (c) The required SMA scenic standards for all development and uses are summarized in the following table:

<b>REQUIRED SMA SCENIC STANDARDS</b>		
<b>LANDSCAPE SETTING</b>	<b>LAND USE DESIGNATION</b>	<b>SCENIC STANDARD</b>
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	Not Visually Evident
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

- (d) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.
- (e) Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.
- (f) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.
  - (A) Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:
    - (i) The amount of area of the building site exposed to key viewing areas,
    - (ii) The degree of existing vegetation providing screening,
    - (iii) The distance from the building site to the key viewing areas from which it is visible,
    - (iv) The number of key viewing areas from which it is visible, and
    - (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
  - (B) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as seen-visible from key viewing areas, including but not limited to:
    - (i) Siting (location of development on the subject property, building orientation, and other elements),
    - (ii) Retention of existing vegetation,

- (iii) Design (**form, line, color, texture**, reflectivity, size, shape, height, architectural and design details and other elements), and
  - (iv) New landscaping.
- (g) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.
- (h) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as **visibleseen** from key viewing areas.
- (i) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.
- (j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:
  - (A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
  - (B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.
  - (C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
  - (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and

minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(k) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting

(l) The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. ~~The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the “Visibility and Reflectivity Matrices” in the *Implementation Handbook*.~~ Continuous surfaces of glass ~~unscreened from key viewing areas~~ shall be limited to ensure meeting the scenic standard. ~~Recommended square footage limitations for such surfaces will be provided for guidance in the *Scenic Resources the Implementation Handbook* includes a list of recommended exterior materials and screening methods.~~

(m) Any exterior lighting shall be sited, limited in intensity, and shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

~~(n) Seasonal lighting displays mayshall be permitted on a temporary basis, not to exceed 3 months.~~

~~(o) 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 settings 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:~~

~~(i) All finished above-ground square footage;~~

- (ii) Total area of covered decks and porches;
- (iii) Attached garages;
- (iv) Daylight basements;
- (v) Breezeways, if the breezeway shares a wall with an adjacent building;
- (vi) Dimensions, based on information from the application or on Assessor's records.

(p) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(3) SMA Guidelines for KVA Foregrounds and Scenic Routes

- (a) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.
- (b) Scenic highway corridor strategies shall be ~~developed and~~ implemented for Interstate 84 (I-84) and the Historic Columbia River Highway (HCRH). For I-84 and the HCRH, this involves ongoing implementation (and possible updating) of the associated existing documents.
- (c) The goals of scenic corridor strategies shall include: 1) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and 2) creating design continuity for the highway corridor within the National Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.
- (d) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in Section 530(2).
  - (A) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous Section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

- (B) Findings must evaluate the following:
- (i) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous Section,
  - (ii) Reduction in project size;
  - (iii) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;
  - (iv) 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:
- (i) 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.
  - (ii) Color-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.
  - (iii) Texture-Textures 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.
  - (iv) Design-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.
- (e) Right-of-way vegetation shall be managed to minimize visual impacts of

clearing and other vegetation removal as ~~seen-visible~~ from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

- (f) Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

(4) SMA Guidelines for Areas Not ~~Seen-Visible~~ from KVAs

(a) 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 the recommended palette of colors included in the *Scenic Resources Implementation Handbook*.

(b) 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:

(i) All finished above-ground square footage;

(ii) Total area of covered decks and porches;

(iii) Attached garages;

(iv) Daylight basements;

(v) Breezeways, if the breezeway shares a wall with an adjacent building;

(vi) Dimensions, based on information from the application or on Assessor's records.

(D) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

## 540. General Management Area Cultural Resource Review Criteria

- (1) General Provisions for Implementing the Cultural Resources Protection Process.
  - (a) 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 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
  - (b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with ~~Indian~~ tribal governments and any interested persons who submit written comments on a proposed use. ~~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 a local government'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.~~
  - (c) Reconnaissance and Historic Surveys and Survey Reports.
    - (A) ~~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 proposed a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling. Gorge Commission and Tribal Government Notice~~
      - (i) In addition to other public notice requirements that may exist, local governments shall notify the tribal governments when (1) a reconnaissance survey is required or (2) cultural resources that are ~~precontact~~historic or otherwise associated with Native Americans exist in the project area. Notices sent to tribal governments shall include a site plan. At a minimum, notice shall be sent via email where addresses are available. If a tribal government requests notice in another form, local governments shall comply with that request.
      - (ii) Tribal governments shall have 30 calendar days from the date a notice is mailed to submit written comments to the local government. The tribal government may choose to include comments that describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge

about them. The local government shall send a copy of all comments to the Gorge Commission.

(B) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 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 540(1)(e)(A) subsection (ii) below. 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 Oregon law.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) 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.

(III) 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.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided 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, but are not limited to, grading and cultivation.

(V) 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.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.
- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
- Public transportation facilities that are outside improved rights-of-way.
- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.
- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting ~~Indian~~ tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. ~~This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan.~~ It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(iii) ~~The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgement, a reconnaissance survey may be necessary to ensure protection of cultural resources. A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource and all proposed uses within 100 feet of a high probability area, including those uses listed above in Subsection 540(1)(c)(B)(ii)(I) through (VI). 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 Oregon law.~~

(C) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 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 50 years old or older.

~~(D)(D)~~—The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

~~(E) Project applicants are responsible for paying for evaluations of significance and mitigation plans for cultural resources that are discovered during construction of small-scale and large-scale uses in the GMA.~~

For Section 540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(E) Reconnaissance Surveys for Small-Scale Uses.

~~Reconnaissance surveys for small-scale uses shall be designed by a qualified professional.~~

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following

guidelines:

- (i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
- (ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(F) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

- (i) A description of the fieldwork methodology used to ~~identity~~ identify cultural resources, including a description of the type and extent of the reconnaissance survey.
- (ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
- (iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(G) Reconnaissance Surveys for Large-Scale Uses

- (i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
- (ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
  - (I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
  - (II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(H) 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:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any ~~prehistorie-precontact~~ or historic events associated with the project area.

(iv) 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 of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) 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 of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by ~~Indian~~-tribal governments and other interested persons.

(vii) 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.

(I) Historic Surveys and Reports

- (i) 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.
  - (ii) 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.
  - (iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
- (d) 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.~~
- (e) If cultural resources may be affected by a proposed use, an evaluation shall be performed to determine if they are significant. Cultural resources are significant if one 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, and association. If a cultural resource has the requisite integrity, then it would be eligible for the National Register of Historic Places.
- (1) Have an association with events that have made a significant contribution to the broad patterns of the history of this region.
  - (2) Have an association with the lives of persons significant in the past.
  - (3) Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction.

(4) Yield, or may be likely to yield, important precontact or historical information.

(B) The cultural resources are determined to be culturally significant by an ~~Indian~~-tribal government, based on criteria developed by that ~~Indian~~-tribal government ~~and filed with the Gorge Commission~~.

(f) The Gorge Commission ~~shall~~ established a Cultural Advisory Committee (CAC). ~~The CAC shall that is~~ comprised of cultural resource professionals, interested individuals, and at least one representative from each of the four ~~Indian-Columbia River Treaty~~ tribes. If a project applicant's and ~~Indian~~-tribal government's evaluations of significance contradict, the ~~Cultural Advisory Committee (CAC)~~ shall review the applicant's evaluation and ~~Indian~~-tribal government's ~~substantiated~~ concerns. The CAC will submit a recommendation to the Director as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Director within the comment period provided in Section 120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. This consultation meeting may include oral history identification through tribal sources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report, except that sensitive tribal information may be redacted by an appropriate tribal representative. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. ~~Tape~~Recordings, maps,

photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the ~~Indian~~ tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Officer and the tribal ~~governmentses~~ shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Director shall make a final decision on whether the proposed use would be consistent with Section 540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how it reached an opposing conclusion.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within ~~3021~~ calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, and no substantiated concerns were voiced by interested persons within ~~3021~~ calendar days of the date that a notice was mailed.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural

resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures. ~~because:~~ To demonstrate that the proposed use would not have an effect on historic buildings or structures, the historic survey must satisfy one of the following guidelines:

(I) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(II) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in ~~the Secretary of the Interior Standards for the Treatment of Historic Properties (U.S. Department of the Interior 1992) and The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior 1992).~~ 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 2007 or most recent revision.)

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Director question whether these guidelines

have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs:

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

- (A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, ~~no date~~1997 or most recent revision) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, ~~no date~~1998 or most recent revision). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.
- (B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.
- (C) The project applicant shall contact ~~Indian~~ tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.
- (D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO-~~1990~~). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.
- (E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with ~~Indian~~ tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from ~~Indian~~ tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

- (A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Director shall submit a copy of the evaluation of

significance to the State Historic Preservation Officer and the ~~Indian~~ tribal governments for concurrence.

(B) The State Historic Preservation Officer, ~~Indian~~ tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant

(A) If ~~an Indiana~~ tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the ~~Indian~~ tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(B) The ~~Indian~~ tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Director within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs:

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.5].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.5]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

(B) The assessment of effect shall be prepared in consultation with **Indian** tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by **Indian**-tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through

conformance with 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 1992/2017 or most recent revision) ~~and The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior 1992).~~

(iii) The proposed use is limited to the transfer, lease, or sale of non-federal lands that contain cultural resources, and adequate restrictions or conditions are included to ensure preservation of the significant features of the resources.

(b) Notice of Assessment Results

- (A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Director shall submit a copy of the assessment to the State Historic Preservation Officer and the ~~Indian~~ tribal governments.
- (B) The State Historic Preservation Officer, ~~Indian~~ tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- (A) The Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how an opposing conclusion was reached.
- (B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.
- (C) A mitigation plan shall be prepared if a project applicant or the Director determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(a) Mitigation Plan Criteria and Information Needs:

Mitigation plans shall be prepared when proposed uses would have an adverse

effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

- (A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including ~~Indian~~-tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.
- (B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be affected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable.

Alternative measures may include, but are not limited to, requiring a monitor during construction, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

- (C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.11, including, but not limited to:
  - (i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.
  - (ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.
  - (iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.
  - (iv) A description of the project applicant's efforts to obtain and consider the views of ~~Indian~~-tribal governments, interested persons, and Director.
  - (v) Copies of any written recommendations submitted to the Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Director shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the ~~Indian~~ tribal governments.

(B) The State Historic Preservation Officer, ~~Indian~~-tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Director shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be affected when cultural resources are discovered during construction activities, and shall be included as conditions of approval for all review uses. All survey and evaluation reports and mitigation plans shall be submitted to the Director and the State Historic Preservation Officer. ~~Indian~~ ~~T~~tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistorie-precontact or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistorie-precontact or otherwise associated with Native Americans, the project applicant shall also notify the ~~Indian~~-tribal governments within 24

hours.

- (c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute (ORS) 358.905 to 358.955.) It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" and "Evaluation of Significance: Evaluation Criteria and Information Needs" above.

Based on the survey and evaluation report and any written comments, the Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.

- (d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" Section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be affected used when human remains are discovered during a cultural resource survey or during construction, and shall be included as a condition of approval for all review uses. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

- (a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (b) Notification. Local law enforcement officials, the Director, the Gorge Commission, and the ~~Indian~~-tribal governments shall be contacted immediately. Contact with any other entity not expressly listed here is prohibited.
- (c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/precontact, historic, or modern. Representatives from the ~~Indian~~-tribal governments shall have an opportunity to monitor the inspection.
- (d) Jurisdiction. If the remains are modern, the appropriate law enforcement

officials shall assume jurisdiction and the cultural resource protection process may conclude.

- (e) Treatment. In Oregon, ~~precontact or prehistoric~~/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs".

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" are met and the mitigation plan is executed.

#### **550. Special Management Area Cultural Resource Review Criteria**

- (1) General Guidelines for Implementing the Cultural Resources Protection Process
  - (a) All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa and 36 CFR 296.18.
  - (b) All cultural resources 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 61.
  - (c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section 550(4) for forest practices and National Forest System lands.
  - (d) New developments or land uses shall not adversely affect significant cultural resources.
- (2) The procedures and guidelines in Section 540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects, and forest practices.
- (3) The procedures and guidelines in 36 CFR 800 and Section 550(4) shall be used by and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

- (4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing effects to cultural resources shall be used to assess potential effects to cultural resources.

(a) Literature Review and Consultation

- (A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.
- (B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.
- (C) Consultation with cultural resource professionals knowledgeable about the area.
- (D) A field inventory by a cultural resource professional shall be required if the Forest Service determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

- (A) The presence of a recorded or known cultural resource, including those reported by tribal governments to be on or within the immediate vicinity of a new development or land use, shall require a field inventory by a cultural resource professional.
- (B) Tribal representatives shall be invited to participate in the field inventory.
- (BC) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:
- (i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.
- (ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use.

This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(ED) A field inventory report shall be prepared, and shall include the following:

- (i) A narrative integrating the literature review of Section (4)(a) above with the field inventory of Section (4)(b) above.
- (ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.
- (iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.
- (iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service for review.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the

area.

- (C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.
- (D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service shall review evaluations for adequacy.
- (E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.
- (F) An assessment of effect shall be required if the Forest Service determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

- (A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for ~~Sections (4)(d)~~ subsections (B) through ~~(4)(d)~~(D) below. The Forest Service shall review each determination for adequacy.
- (B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).
- (C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to Resolve Adverse Effects").

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service shall review all mitigation proposals for adequacy.

Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) a reconnaissance or historic survey, 2) a determination of significance, 3) an assessment of effect, or 4) a mitigation plan.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and, if possible, to~~or~~ recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Section 550(4)(c) and report the results to the Forest Service.

(c) The cultural resource review process shall be ~~complete~~completed, and work may continue if the Forest Service determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Section 550(4)(e) if the Forest Service determines that the cultural resource is significant.

**560. General Management Area Wetland Review Criteria Water Resource and Buffer Zones**

- (1) ~~Wetlands Boundaries and Site Plans for Review Uses in Wetlands Water Resources and Buffer Zones~~
  - (a) ~~If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.~~
  - (A) ~~The approximate location and extent of wetlands in the National Scenic Area is 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. Wetlands boundaries shall be delineated using the procedures specified in the Corps of Engineers Wetlands Delineation Manual (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).~~
  - (B) ~~All wetlands delineations shall be conducted by a professional that has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.~~
  - (C) ~~The Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Director shall, at the applicant's expense, obtain professional services to render a final delineation.~~

In addition to the information required in all site plans, site plans for proposed uses in ~~wetlands or wetlands~~ water resources or their buffer zones shall include:

  - (A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;
  - (B) the exact boundary of the ~~wetland-water resource, ordinary high water mark or normal pool elevation,~~ and the ~~wetlands~~ buffer zone; and
  - (C) a description of actions that would affect the ~~wetland~~ water resource.

- (2) ~~The following Uses may be allowed outright in wetlands and wetlands buffer zones. Subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for uses in Wetlands" in Subsection 5 below:~~
  - (a) ~~Section 560 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is defined by the Ordinary High Water mark or Normal Pool Elevation depicted on the map~~

~~titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For this Ordinance, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.~~

~~(b) Uses allowed outright are listed in Section 070.~~

~~(a) The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (this does not include private road and driveways), if such actions would not:~~

- ~~(1) Increase the size of an existing structure by more than 100 percent.~~
- ~~(2) Result in a loss of water resource function.~~
- ~~(3) Result in a loss of water quality, natural drainage, and fish and wildlife habitat.~~

~~(b) The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to: boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.~~

~~(c) The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.~~

~~(3) The following uses may be allowed in wetlands and wetlands- water resources (except wetlands), and may be allowed in all water resource buffer zones (including wetland buffer zones), subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Water Resources in Section 6 below: when approved pursuant to the provisions in Section 560(5), and reviewed under the applicable provisions of Sections 520 through 620:~~

~~(a) The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (not including private roads and driveways structures), if such actions would not:~~

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, ~~and~~

~~(C) Result in a loss of water quality, natural drainage, and fish and wildlife habitat.~~

~~(C) Intrude further into a ~~wetland or wetlands~~ water resources or water resources buffer zone. New structures shall be considered intruding further into a ~~wetland or wetlands~~ water resources or water resources buffer zone if any portion of the structure is located closer to the ~~wetland or wetlands~~ water resource or buffer zone than the existing structure.~~

(b) The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.

(c) The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

(4) ~~Uses not listed in Section 560(2) and (3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Section 560(6) and reviewed under the applicable provisions of Sections 520 through 620. Uses that are not allowed outright or in Section 1 and 2 above, may be allowed in water resources (except wetlands) and in all water resources buffer zones (including wetland buffer zones), subject to compliance with the guidelines for the protection of scenic, natural, cultural and recreation resources and “Approval Criteria for Other Review Uses in Water Resources in Section 7 below.~~

~~(5) Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including cumulative effective. Adverse effects shall be prohibited.~~

~~(6) Approval Criteria for Uses in Wetlands: The uses identified in Section (1) above may be allowed only if they meet all of the following criteria: Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:~~

~~(a) Practicable alternatives to locating the structure outside of the wetland do not~~

exist.

(b) All reasonable measures have been applied to ensure that the ~~structure use~~ will result in the minimum ~~feasible alteration or destruction~~ loss of wetlands and in the minimum degradation of ecological functions, water quality, the wetlands, existing contour, ~~functions~~, vegetation, fish and wildlife resources, and hydrology.

(c) The use will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

(d) Areas disturbed during construction of the use will be rehabilitated to the maximum extent practicable.

(e) The use complies with the Approval Criteria for Other Review Uses in Water Resources in Section 7 below.

(f) Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(g) The structure complies with all applicable federal, state, and county laws.

(6) Approval Criteria for Modification to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Water Resources: The uses identified in Subsection 2 above may be allowed only if they meet all of the following criteria:

(a) Practicable alternatives for locating the structure outside of the ~~wetland-water resource or buffer zone and/or minimizing the impacts of the structure~~ do not exist.

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum ~~feasible alteration or destruction~~ degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology.

(c) The structure will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable.

(e) Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(f) The structure complies with all applicable federal, state, and local laws.

(7) Approval Criteria for Other Review Uses in Water Resources: The uses identified in Section (3) above may be allowed only if they meet all of the following criteria: Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands water resources;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands water resources; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or ~~R~~Recreation ~~I~~Intensity ~~e~~Class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

~~An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.~~

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use. For uses in wetlands, public need is limited to uses necessary to alleviate a current public safety issue supported by evidence establishing the safety issue.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

- (C) The functions and size of the wetland-water resources that may be affected.
  - (D) The economic value of the proposed use to the general area.
  - (E) The ecological value of the wetland water resources and probable effect on public health and safety, fish, plants, and wildlife.
- (c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration ~~or destruction~~ of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology resource. As a starting point, the following measures shall be considered when new development and uses are proposed in water resources or buffer zones:
- (A) Ecological functions, contour, and hydrology shall be maintained. Nonstructural controls and natural processes shall be used to the greatest extent possible.
  - (B) Constructions shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in Oregon's published guidelines for in-water work, or as advised by the Department of Fish and Wildlife.
  - (C) All vegetation shall be retained to the greatest extent practicable, including wetland, aquatic, and riparian vegetation.
  - (D) Bridges, roads, pipeline, and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
  - (E) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used. State agencies with permitting responsibility for culverts shall be consulted.
  - (F) Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when water resource areas are disturbed, such as slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts
  - (G) Measure shall be taken to prevent the introduction or spread of invasive plants or aquatic species.
- (d) Groundwater and surface-water quality will not be degraded by the proposed use.

- (e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlandswater resources or buffer zones.
- (f) The proposed use complies with all applicable federal, state, and county laws.
- (g) Areas that are disturbed during construction will be rehabilitated ~~to the maximum extent practicable.~~ When a project area cannot be completely restored or rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.
- (h) Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.
- (ih) Unavoidable impacts to wetlands-water resources will be offset through restoration, creation, or enhancement of wetlandsimpacted resources. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands-water resource impacts.

The following wetlands-water resource restoration, creation, and enhancement guidelines shall apply:

- (A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative approach when wetlands are impacted.
- (B) ~~Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan. Water resources restoration and enhancement shall be conducted in accordance with a wetland compensation plan or water resources mitigation plan. Voluntary enhancement project applications shall be encouraged.~~
- (BC) Wetlands restoration, creation, and enhancement projects shall use native vegetation. Water resources shall be replanted with native plant species that replicate the original vegetation community.
- (C) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.
- (D) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient. Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(E) The bed of the affected aquatic area shall be rehabilitated with materials appropriate for the channel and hydrologic features.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structural habitat features including large woody debris and boulders.

(G) Rehabilitation and enhancement efforts shall be completed no later than 90 days after the water resource or buffer zone has been altered, or as soon thereafter as is practicable.

(~~D~~H) The size of replacement 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~~):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(~~D~~I) Replacement wetlands shall replicate the functions of the wetland that will be altered ~~or destroyed~~ such that no net loss improvement of wetlands functions occurs.

(~~E~~J) Replacement wetlands should replicate the type of wetland that will be altered ~~or destroyed~~. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss improvement of wetlands functions occurs.

(~~F~~K) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered ~~or destroyed~~ wetland as practicable.

(~~H~~L) ~~Wetlands r~~Restoration, creation, and enhancement efforts should be completed before a wetland-water source is altered ~~or destroyed~~. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland-water source is altered ~~or destroyed~~, these efforts shall be completed before the new use is occupied or used.

(~~I~~M) Five years after a wetland is restored, created, or enhanced, or three years after a stream, pond, lake, or riparian area is restored, at least 75

percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland-water resource, provide reports, and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan or water resources mitigation plan, and this guideline.

(8) Rules for Delineating Wetland Boundaries:

(a) The approximate location and extent of wetlands in the National Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior), as well as local wetlands inventories produced by state or local governments. In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered during an inspection of a potential project site shall be delineated and protected.

(b) The project applicant shall be responsible for using the procedures specified in the *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1, on-line edition) and applicable Regional Supplements as may be revised from time to time. All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures.

(c) The local government may verify the accuracy of, and render adjustments to, a wetlands boundary delineation. If the adjusted boundary delineation is contested by the project applicant, the local government shall obtain professional services to render a final delineation, at the applicant's expense.

(9) Wetlands Water Resources Buffer Zones

(a) All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified below.

(b) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, and the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the water resource boundary. On the main stem of the Columbia River above the Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer widths shall be required:

(1) The width of wetlands, lakes, and ponds buffer zones shall be based on the dominant vegetation community that exists in a buffer zone. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

~~(b)~~ (2) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

~~(A3)~~ A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

~~(B4)~~ A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

~~(C5)~~ An herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.

(c) A buffer zone width of 200 feet shall be provided from the Hood River, which was identified by the Environmental Protection Agency in 2019 as priority cold water refuge fish habitat stream.

~~(e) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands water resource boundary. The following buffer zone widths shall be required:~~

~~(A) Forest communities: 75 feet~~

~~(B) Shrub communities: 100 feet~~

~~(C) Herbaceous communities: 150 feet~~

(d) A buffer zone width of 100 feet shall be provided from streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams:

(e) A buffer zone width of 50 feet shall be provided from intermittent streams

provided they are not used by anadromous or resident fish.

(d) Except as otherwise allowed, wetlands-water resources buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(e) The project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation. The local government may verify the accuracy of, and render adjustments to, an ordinary high watermark or normal pool delineation. If the adjusted boundary delineation is contested by the project applicant, the local government shall obtain professional services to render a final delineation, at the project applicant's expense.

(910) Wetlands Compensation Plans:

~~Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a wetlands compensation plan, as described in this Section.~~

~~All enhancement plans must be approved by the County after consultation with federal and state agencies with jurisdiction over wetlands.~~

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. ~~They shall satisfy the following guidelines:~~

A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. All wetlands compensation plans must be approved by the local government, after consultation with federal and state agencies with jurisdiction over wetlands. They shall satisfy the following guidelines and any others required by federal and state agencies:

- (a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
- (b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered ~~or destroyed~~ and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.
- (c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of

the existing area to be converted.

- (d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, 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 erosion and sediment control needed for wetland construction and long-term survival.
  - (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 predation.
  - (C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.
- (e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.
- (f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

(11) Water Resources Mitigation Plans:

(a) Mitigation plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake, or buffer zone. A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. They shall satisfy the following guidelines and any others required by federal and state agencies:

(A) Mitigation plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(B) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, or buffer zone. The assessment shall include hydrology, flora, and fauna.

- (C) Plans shall include plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information in sufficient detail to explain and illustrate:
- (1) 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.
  - (2) 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 predation.
  - (3) Water quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.
- (D) A minimum 3-year monitoring, maintenance, and replacement program shall be included in all mitigation plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation shall survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet this guideline. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.
- (E) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a mitigation plan.

**570.—General Management Area Stream, Pond, Lake and Riparian Areas and Their Buffer Zones Review Criteria**

~~(1)—Stream, Pond, and Lake Boundaries and Site Plans for Review  
Uses in Aquatic and Riparian Areas and their buffer zones.~~

~~(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.~~

~~(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:~~

~~(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;~~

~~(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and~~

~~(C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.~~

~~(2)—Uses allowed outright in streams, ponds, lakes, and their buffer zones.~~

~~(a) Section 570 shall not apply to proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.~~

~~(b) Uses allowed outright are listed in Section 070.~~

~~(3)—The following uses may be allowed in streams, ponds, lakes and riparian areas and their buffer zones when approved pursuant to Section 570(5), and reviewed under the applicable provisions of Sections 520 through 620:~~

~~(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:~~

~~(A) Increase the size of an existing structure by more than 100 percent,~~

~~(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or~~

~~(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond,~~

~~lake, or buffer zone than the existing structure.~~

- ~~(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks, trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.~~
- ~~(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.~~
- ~~(4) Uses not listed in Section 570(2) and (3) may be allowed in streams, ponds, lakes, and riparian areas and their buffer zones, when approved pursuant to Section 570(6) and reviewed under the applicable provisions of Sections 520 through 620.~~
- ~~(5) Proposed uses in streams, ponds, lakes, and riparian areas and their buffer zones shall be evaluated for adverse effects, including cumulative effects. Adverse effects shall be prohibited.~~
- ~~(6) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:
  - ~~(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;~~
  - ~~(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;~~
  - ~~(c) The structure will be constructed using best management practices;~~
  - ~~(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and~~
  - ~~(e) The structure complies with all applicable federal, state, and local laws.~~~~
- ~~(7) Applications for all other Review Uses in streams, ponds and lakes and riparian areas and their buffer zones shall demonstrate that:
  - ~~(a) The proposed use is water dependent, or is not water dependent but has no~~~~

~~practicable alternative as determined by Section 560(6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.~~

- ~~(b) The proposed use is in the public interest as determined by Section 560(6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.~~
- ~~(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.~~

~~At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:~~

- ~~(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 2000), unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife.~~
- ~~(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.~~
- ~~(C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.~~
- ~~(D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.~~
- ~~(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.~~
- ~~(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.~~

- ~~(d) Groundwater and surface water quality will not be degraded by the proposed use.~~
- ~~(e) Those portions of a proposed use that are not water dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.~~

~~(f) The proposed use complies with all applicable federal, state, and county laws.~~

~~(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.~~

~~Enhancement of streams, ponds, lakes and riparian areas not associated with any other development proposal may be allowed, if such efforts comply with the streams, ponds, lakes and riparian area provisions in this Management Plan. Enhancement efforts shall be conducted pursuant to a rehabilitation and enhancement plan, as described in this Section.~~

~~All enhancement plans shall be approved by the County, after consultation with federal and state agencies with jurisdiction over streams, ponds, lakes and riparian areas.~~

~~Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.~~

~~When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.~~

~~The following rehabilitation and enhancement guidelines shall apply:~~

~~(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.~~

~~(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.~~

~~(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.~~

~~(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.~~

~~(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.~~

~~(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.~~

~~(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.~~

~~(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.~~

~~(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.~~

~~(8) Stream, Pond, and Lake Buffer Zones~~

~~(a) 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 used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year round pools, and perennial streams: 100 feet~~

~~(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet~~

~~(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Section 560(7)(b), substituting the term pond or lake as appropriate.~~

~~(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.~~

~~(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Director 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 Director shall, at the project applicant's expense, obtain professional services to render a final delineation.~~

~~(9) 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:

- ~~(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.~~
- ~~(b) 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.~~
- ~~(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 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 predation.~~
  - ~~(C) Water quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.~~~~
- ~~(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.~~
- ~~(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.~~

## **580. General Management Area Sensitive Wildlife Review Criteria**

- (1) Priority Habitat and Sensitive Wildlife Areas and Sites; and Site Plans Near Sensitive Wildlife
- (a) Proposed uses shall not adversely affect sensitive-wildlife areas priority habitat or sensitive wildlife sites:
- (A) "Sensitive-wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:
- Bald eagle habitat
  - Deer and elk winter range
  - Elk habitat
  - Mountain goat habitat
  - Peregrine falcon habitat
  - Pika colony area
  - Pileated woodpecker habitat
  - Pine marten habitat
  - Shallow water fish habitat (Columbia R.)
  - Special streams
  - Special habitat area
  - Spotted owl habitat
  - Sturgeon spawning area
  - Tributary fish habitat
  - Turkey habitat
  - Waterfowl area
  - Western pond turtle habitat
- Priority Habitats are identified by the Forest Service and Oregon Department of Fish and Wildlife. The agencies revise their priority habitats from time to time. The Priority Habitats Table is found in Section 600(A)(3)(d)(I), below.
- (B) Sensitive Wildlife Sites are the location used by "Rare Wildlife Species" (as noted below) for nesting, roosting, denning, and other lifecycle needs.
- (BC) "Sensitive-Rare wildlife speciesites" means sites that are used by animal species that are includes species that are:
- (i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iii) considered to be of special interest to wildlife management authorities and the public (~~limited to~~ great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).

Updated lists of species included in sensitive wildlife sites can be found on the websites for the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, ~~site plans for~~ uses within 1,000 feet of a Priority Habitat or sensitive wildlife ~~area or~~ site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) ~~Uses allowed outright are listed in Section 070. Except uses allowed outright, proposed uses may be allowed within 1,000 feet of a Priority Habitat or sensitive wildlife site, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and “Approval Criteria for Review Uses Near Priority Habitat and Sensitive Wildlife Sites” in Subsection 5 below.~~

(3) Proposed uses within 1,000 feet of a Priority Habitat or sensitive wildlife ~~area or~~ site shall be evaluated for adverse effects, including cumulative effects. Adverse effects shall be prohibited.

(4) Field Surveys for Review Uses Near Priority Habitat and Sensitive Wildlife Sites

A field survey to identify sensitive wildlife areas or sites shall be required for the following large-scale uses:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) 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.

Field surveys shall cover all areas affected by the proposed use or recreation ~~facility development~~. They shall be conducted by a professional wildlife biologist hired by the project applicant. All Priority Habitat and sensitive wildlife ~~areas and~~ sites discovered in a project area shall be described and shown on the site plan map.

~~(5) Uses not listed in Section 580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Section 580(6) and reviewed under the applicable provisions of Sections 520 through 620.~~

~~(65) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows Approval Criteria for Review Uses Near Priority Habitat and Sensitive Wildlife Sites:~~

~~(a) (a) ——— Uses that are proposed within 1,000 feet of a Priority Habitat or sensitive wildlife site shall be reviewed by the Oregon Department of Fish and Wildlife. The approximate locations of sensitive wildlife sites are maintained by the Gorge Commission, Forest Service, and state wildlife agencies. State wildlife biologists will help determine if a new use would adversely affect a Priority Habitat or sensitive wildlife site.~~

~~(b) Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists, a wildlife survey and mitigation plan shall be required. These criteria shall not apply to forest practices that are otherwise allowed and that do not violate conditions of approval for other approved uses.~~

~~(c) Site plans shall be submitted to the Oregon Department of Fish and Wildlife. State wildlife biologists will review the site plan and their field survey records and:~~

~~(A) Identify/verify the precise location of the Priority Habitat or sensitive wildlife ~~area or~~ site,~~

~~(B) Ascertain whether the Priority Habitat or sensitive wildlife ~~area or~~ site is active or abandoned, and~~

~~(C) Determine if the proposed use may compromise the integrity of the Priority Habitat or sensitive wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify ~~the~~ wildlife inventory data and assess the potential effects of a proposed use.~~

- (bd) The following factors may be considered when site plans are reviewed:
- (A) Biology of the affected wildlife species.
  - (B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron.
  - (C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
  - (D) Historic, current, and proposed uses in the vicinity of the Priority Habitat or sensitive wildlife area-or site.
  - (E) Existing condition of the Priority Habitat or sensitive wildlife area-or site and the surrounding habitat ~~and the useful life of the area-or site~~.
- (ee) The wildlife protection process may terminate if the Director, in consultation with the state wildlife agency, determines:
- (A) The sensitive wildlife ~~area-or~~ site is not active, or
  - (B) The proposed use would not compromise the integrity of the Priority habitat or sensitive wildlife area-or site or occur during the time of the year when wildlife species are sensitive to disturbance.
- (df) If the Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the ~~wildlife area-or~~ Priority Habitat or sensitive wildlife site that could be eliminated by simply modifying the site plan through ~~mitigation~~ measures recommended by the state wildlife biologist or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Director will incorporate them into the development review order and the wildlife protection process may conclude.
- (eg) The project applicant shall prepare a wildlife ~~management mitigation~~ plan if the Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a Priority Habitat or sensitive wildlife area-or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.
- (fh) The Director shall submit a copy of all field surveys and wildlife ~~management mitigation~~ plans to Oregon Department of Fish and Wildlife. The state wildlife agency will have 20-30 days from the date that a field survey or

management plan is mailed to submit written comments to the Director.

- (i) The Director shall record and address any written comments submitted by the state wildlife agency in the land use review order.
- (j) Based on the comments from the state wildlife agency, the Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Director shall justify how the opposing conclusion was reached.
- (k) The Director shall require the applicant to revise the wildlife ~~management mitigation~~ plan as necessary to ensure that the proposed use would not adversely affect a Priority Habitat or sensitive wildlife ~~area or~~ site.
- (l) If the Director discovers a new protected wildlife location during the review process, the local government shall submit this information to the Oregon Department of Fish and Wildlife to be updated in their species databases.

(76) Wildlife ~~Management Mitigation~~ Plans

Wildlife ~~management mitigation~~ plans shall be prepared when a proposed use is likely to adversely affect a Priority habitat or sensitive wildlife ~~area or~~ site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects Priority habitats and sensitive wildlife ~~areas and~~ sites, maximizes his/hers/their development options, ~~and~~ mitigates temporary impacts to the sensitive wildlife area or site and/or buffer zone, and offsets unavoidable negative impacts to priority habitats and sensitive wildlife sites.

Wildlife ~~management mitigation~~ plans shall meet the following guidelines:

- (a) Wildlife ~~management mitigation~~ plans shall be prepared by a professional wildlife biologist hired by the project applicant.
- (b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life habitat value of the wildlife ~~area or~~ site.
- (c) Where applicable, The ~~the~~ core habitat of the rare sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife ~~area or~~ site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect ~~sensitive~~the rare wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. ~~Low intensity, non-destructive uses may be conditionally authorized in the core habitat.~~

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation ~~and~~/or enhancement will be completed before a particular species returns.

(f) Rehabilitation ~~and~~/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered ~~or degraded~~ in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife ~~management~~mitigation plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3-year monitoring plan when the affected ~~wildlife area or~~Priority Habitat or sensitive wildlife site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the ~~wildlife area or~~Priority Habitat or sensitive wildlife site and the success of rehabilitation ~~and~~/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant

satisfies the ~~rehabilitation and enhancement~~ wildlife mitigation plan guidelines.

(87) New ~~f~~Fences in ~~d~~Deer and ~~e~~Elk ~~w~~Winter ~~r~~Range

- (a) New fences in deer and elk winter range ~~shall~~ may be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens, Priority Habitat, or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.
- (b) New and replacement fences that are allowed in winter range shall comply with the guidelines in the Forest Service document, Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, and may be revised from time to time, unless the applicant demonstrates the need for an alternative design. To allow deer and other wildlife safe passage:
  - (A) To make it easier for deer to jump over the ~~–~~fence, the top wire shall not be more than 42 inches high.
  - (B) The distance between the top two wires is critical for ~~–~~adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.
  - (C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.
  - (D) Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
- (c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

**590. General Management Area Rare Plant Review Criteria**

- (1) ~~Sensitive-Rare~~ Plants and Site Plans for Review Uses Near ~~Sensitive Rare~~ Plants
  - (a) Proposed uses shall not adversely affect ~~sensitive-rare~~ plants. "Sensitive Rare plants" means plant species that are:
    - (A) ~~E~~ndemic to the Columbia River Gorge and vicinity. The table below lists the endemic plants as of 2021, which the Gorge Commission developed in consultation with the Oregon Biodiversity Information Center.;
    - (B) ~~L~~isted as endangered or threatened pursuant to federal or state endangered species acts, or
    - (C) ~~l~~isted as ~~endangered, threatened, or sensitive by the Oregon Natural Heritage program.~~ Designated global or state status ranks 1, 2, or 3 by the Oregon Biodiversity Information center. This includes designated native plant communities.

Updated lists of ~~sensitive~~ plant species and ecosystems can be found on the website for the Oregon ~~Natural Heritage Program~~ Biodiversity Information Center. A list also is maintained by the USDA Forest Service – National Scenic Area and available on the Gorge Commission website.

Columbia Gorge and Vicinity Endemic Plant Species

<u>Common Name</u>	<u>Scientific Name</u>
<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 var. laevigata</i></u>
<u>Howell’s daisy</u>	<u><i>Erigeron oregonus</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 suksdorfii</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>
<u>Columbia kittentails</u>	<u><i>Synthyris stellate</i></u>

- (b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a ~~sensitive rare~~ plant site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (2) ~~Uses allowed outright are listed in Section 070. Except uses allowed outright,~~ proposed uses may be allowed within 1,000 feet of a rare plant, subject to

compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses Near Rare Plants" in Subsection 5 below.

- (3) Proposed uses within 1,000 feet of a rare sensitive plant site shall be evaluated for adverse effects, including cumulative effects. Adverse effects shall be prohibited.
- (4) Field Survey

A field survey to identify sensitive rare plants shall be required for the following large-scale uses:

- (a) Land divisions that create four or more parcels;
- (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
- (c) Public transportation facilities that are outside improved rights-of-way;
- (d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
- (e) 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.

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 sensitive rare plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map and kept confidential by the local government as required by state law.

- ~~(5) Review uses may be allowed within 1,000 feet of a sensitive rare plant, when approved pursuant to Section 590(6), and reviewed under the applicable provisions of Sections 520 through 620.~~
- ~~(65) Uses that are proposed within 1,000 feet of a sensitive rare plant shall be reviewed as follows~~Approval Criteria for Review Uses Near Rare Plants:
  - (a) Site plans shall be submitted to the Oregon Natural Heritage Program Biodiversity Information Center by the Director for uses proposed

within 1,000 feet of a rare plant. ~~The Natural Heritage Program Biodiversity Information Center~~ staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 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.

- (b) The rare plant protection process may conclude if the Director, in consultation with ~~the Natural Heritage Program Oregon Biodiversity Information Center~~ staff, determines that the proposed use would be located outside of a ~~sensitive rare~~ plant buffer zone.
- (c) New uses shall be prohibited within ~~sensitive-rare~~ plant ~~species~~ buffer zones, except those listed in Sections 590(2).
- (d) If a proposed use must be allowed within a ~~sensitive-rare~~ plant buffer ~~area-zone~~ in accordance with Section 150(2), the project applicant shall prepare a ~~protection and rehabilitation mitigation~~ plan pursuant to Section 590(6).
- (e) The Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon ~~Natural Heritage Program Biodiversity Information Center~~. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Director.

The Director shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Director shall justify how the opposing conclusion was reached.

#### ~~(76)~~ ~~Protection and Rehabilitation~~ Rare Plant Mitigation Plans

~~Protection and rehabilitation~~ Rare Plant Mitigation ~~p~~Plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a ~~rare sensitive~~ plant buffer zone as the result of a variance. All plans shall meet the following guidelines:

- (a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

- (b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.
- (c) ~~Sensitive-Rare~~ plants that will be ~~destroyed-altered~~ shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

- (d) ~~Sensitive-Rare~~ plants and their surrounding habitat that will not be altered ~~or destroyed~~ shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.
- (e) Habitat of a ~~sensitive-rare~~ plant that will be affected by temporary uses shall be rehabilitated to a natural condition.
- (f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.
- (g) ~~Protection and rehabilitation~~ Rare Plant Mitigation plans shall include maps, photographs, and text. The text shall:
- (A) Describe the biology of ~~sensitive-rare~~ plant species that will be affected by a proposed use.
- (B) Explain the techniques that will be used to protect ~~sensitive-rare~~ plants and their surrounding habitat that will not be altered ~~or destroyed~~.
- (C) Describe the ~~rehabilitation and enhancement~~ mitigation actions that will minimize and offset the impacts that will result from a proposed use.
- (D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Director an annual report that documents milestones, successes, problems, and contingency actions.

(87) ~~Sensitive-Rare~~ Plant Buffer Zones

- (a) A 200-foot buffer zone shall be maintained around ~~sensitive-rare~~ plants. Buffer areas shall remain in an undisturbed, natural condition.

- (b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.
- (c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

- (A) Identifies the precise location of the sensitive-rare plants,

- (B) Describes the biology of the sensitive-rare plants, and

- (C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

- (d) The Director shall submit all requests to reduce sensitive-rare plant species buffer areas to the Oregon Natural Heritage Program Biodiversity Information Center. The Natural Heritage Program Biodiversity Information Center staff will have 20 days from the date that such a request is mailed to submit written comments to the Director.

The Director shall record and address any written comments submitted by the Oregon Natural Heritage Program in the development review order.

Based on the comments from the Oregon Natural Heritage Program Biodiversity Information Center, the Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program Biodiversity Information Center staff, the Director shall justify how the opposing conclusion was reached.

#### (8) Practicable Alternative Test (GMA/SMA)

(a) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- (A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife areas and sites, or plant areas and/or sites.
- (B) 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, wildlife areas and sites, or plant areas and/or sites.
- (C) 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 "Recreation Intensity" Class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

## **600. Special Management Area Natural Resource Review Criteria**

### **A. SMA Natural Resource Review Criteria**

- (1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered. (Site plans are described in Section 080).
- (2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)
  - (a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections ~~(2)(a)~~(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.
    - (A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.
    - (B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. 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:
      - (i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.
      - (ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.
      - (iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:
        - (I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

- (II) The wetland is not critical habitat.
  - (III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.
- (C) The buffer width shall be increased for the following:
- (i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.
  - (ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.
  - (iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.
- (D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.
- (E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the sensitive-rare wildlife/plant or water resource, (2) describes the biology of the sensitive-rare wildlife/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/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.
- (F) The Planning Director shall submit all requests to re-configure sensitive-rare wildlife/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 Planning Director 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 Planning Director shall justify how the opposing conclusion was reached.

- (b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.
- (c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)
- (d) Wetlands Boundaries shall be delineated using the following:
  - (A) The approximate location and extent of wetlands in the National Scenic Area is 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 (on-line 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~~.
- (e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the 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.
- (f) The Planning Director 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 Planning Director shall

obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) 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.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas ~~and~~ or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a SMA mitigation plan.

(h) Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

(3) Wildlife and Plants

(a) Protection of ~~sensitive~~ wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 feet of a ~~sensitive rare~~ wildlife/~~plant site and/or area~~ or rare plant area or site.

~~Sensitive-Rare~~ Wildlife Areas and endemic plants are those areas depicted in ~~the~~ wildlife ~~inventory data~~ and listed in ~~Tables 4 and 7 in~~ the Management Plan including all Priority Habitats listed in this Chapter. The approximate locations of ~~sensitive-rare~~ wildlife and ~~rare/or~~ plant areas and sites are shown in ~~the~~ wildlife and rare plant ~~data~~ ~~inventory~~.

Updated lists of sensitive wildlife sites and plant species can be found on the websites for the Wildlife Division of Oregon Department of Fish and Wildlife and the Oregon ~~Natural Heritage Program~~ Biodiversity Information Center. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

- (b) The Planning Director shall submit site plans (of uses or development proposed within 1,000 feet of a ~~sensitive-rare~~ wildlife ~~and/or~~ ~~rare~~ plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife for wildlife issues and by the Oregon ~~Natural Heritage Program~~ Biodiversity Information Center for plant issues).
- (c) The Forest Service wildlife biologists and ~~/or~~ botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:
  - (A) Identify/verify the precise location of the wildlife ~~and/or~~ plant area or site,
  - (B) Determine if a field survey will be required,
  - (C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife ~~or~~ ~~and~~ plant area or site. This would include considering the time of year when wildlife ~~or~~ ~~and~~ plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season. Cumulative effects that adverse shall be prohibited.
  - (D) Delineate the undisturbed 200 ft buffer on the site plan for ~~sensitive-rare~~ plants ~~and/or~~ the appropriate buffer for ~~sensitive-rare~~ wildlife areas or sites, including nesting, roosting and perching sites.
    - (i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased,

(3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the ~~sensitive-rare~~ wildlife/plant or water resource, (2) describes the biology of the ~~sensitive-rare~~ wildlife/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/plant and their surrounding habitat that is vital to their long-term survival or to the water resource and its long term function.

(iii) The Planning Director shall submit all requests to re-configure ~~sensitive-rare~~ wildlife/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 Planning Director will make a final decision on whether the reduced buffer zones is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Planning Director shall justify how the opposing conclusion was reached

(d) The Planning Director, in consultation with the ~~s~~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 developments or uses do not compromise the integrity and function of or result in ~~adverse affects~~adverse effects to the wildlife and ~~or~~ plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry ~~has prepared technical papers that include~~ management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife ~~has prepared similar~~ guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.

- (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/plant area or site.
- (D) Existing condition of the wildlife/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 "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2008~~9~~).
- (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 fledgling of young) and those periods specified.
- (H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.
- (I) Maintain, protect, and enhance the integrity and function of Priority Habitats (~~such as old growth forests, talus slopes, and oak woodlands~~) as listed on the following Priority Habitats Table. 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.

<b>PRIORITY HABITATS TABLE</b>	
<b>Priority Habitats</b>	<b>Criteria</b>
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>

Priority Habitats are defined by the Forest Service and state wildlife agencies through State Wildlife Action Plan efforts.

- (e) The wildlife/plant protection process may terminate if the Planning Director, in consultation with the Forest Service and state wildlife agency or hHeritage program, determines (1) the sensitive-rare wildlife area or site is not active, or (2) the proposed use is not within the buffer zones orand would not compromise the integrity of the wildlife/plant area or site, and (3) 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). If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.
- (f) If the above measures fail to eliminate the adverse-affectsadverse effects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.
- (g) The Planning Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state

agencies. The Planning Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision.

Based on the comments from the state and federal wildlife agency/heritage program, the Planning Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Planning Director shall justify how the opposing conclusion was reached.

- (h) The Planning Director 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/plant area or site.
- (i) Proposed uses and development within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

(4) Soil Productivity

- (a) Soil productivity shall be protected using the following guidelines:
  - (A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
  - (B) New developments and land uses shall control all soil movement within the area shown on the site plan.
  - (C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.
  - (D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

**B. Practicable Alternative Test (GMA/SMA)**

- (1) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- (a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, or wildlife or plant areas ~~and~~/or sites.
- (b) 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, or wildlife or plant areas ~~and~~/or sites.
- (c) 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 ~~R~~ecreation ~~i~~ntensity ~~e~~Class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

**C. SMA Mitigation Plans**

- (1) Mitigation Plan shall be prepared when:
  - (a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, or wildlife or plant areas ~~and~~/or sites).
  - (b) There is no practicable alternative (see the “practicable alternative” test).
- (2) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).
- (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/plant areas and sites, that maximizes ~~his/her~~ development options, and that mitigates, through restoration, enhancement, creation, and replacement measures, impacts to the water resources and/or wildlife/plant area or site ~~and/or~~ buffer zones.
- (4) The applicant shall submit the mitigation plan to the Planning Director. The Planning Director 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/heritage program, the Planning Director shall justify how he/she reached an opposing conclusion.

- (5) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.
- (6) Mitigation plans shall include maps, photographs, and text. The text shall:
- (a) Describe the biology and ~~or~~ function of the protected sensitive resources (eg. Wildlife/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.
  - (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.
  - (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 examples, delineation of core habitat of the sensitive-rare wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).
  - (d) Show how restoration, enhancement, and replacement ~~(creation)~~ 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.
  - (e) Show how the proposed restoration, enhancement, or replacement ~~(creation)~~ mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive-protected resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.
- (7) At a minimum, a project applicant shall provide to the Planning Director a progress report every 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.
- (8) A final monitoring report shall be submitted to the Planning Director for review upon completion of the restoration, enhancement, created, or replacement activity. This monitoring report shall document successes, problems encountered, resource

recovery, status of any ~~sensitive-rare~~ wildlife/plant species and shall demonstrate the success of restoration ~~and/or~~ enhancement actions. The Planning Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Planning Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

- (9) Mitigation measures to offset impacts to resources ~~and/or~~ buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:
- (a) Restoration and enhancement efforts shall be completed no later than one year after the ~~sensitive-protected~~ resource or buffer zone has been altered ~~or destroyed~~, or as soon thereafter as is practicable.
  - (b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings ~~must-shall~~ be with native plant species that replicate the original vegetation community.
  - (c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.
  - (d) If this standard is not feasible or practical because of technical constraints, a ~~sensitive-protected~~ resource of equal or greater benefit may be substituted, provided that no net loss of ~~sensitive-protected~~ resource functions occurs and provided the Planning Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.
  - (e) ~~Rare~~Sensitive plants that will be ~~destroyed-altered~~ shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

~~Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.~~

- (f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
  - (A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
  - (B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the "Practical Alternative Test".
  - (C) Fish passage shall be protected from obstruction.
  - (D) Restoration of fish passage should occur wherever possible.
  - (E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.
  - (F) 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.
  - (G) 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.
  - (H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.
  - (I) The size of restored, enhanced, and ~~replacement (creation)~~ 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 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.
- (h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit 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 above in guideline 600(C)(9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

## **610. General Management Area 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, subject to compliance with the “Facility Design Guidelines For GMA and SMA Recreation Projects” (Section 610(7)):

The following uses may be allowed, subject to compliance with Section 610(5) and (6):

### **(1) Recreation Intensity Class 1 - Very Low Intensity**

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 sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities are allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

The following uses may be permitted:

- (a) Parking areas, not to exceed a site-wide capacity for a maximum of 10 cars for vehicles, when associated with any allowed uses in Recreation Intensity Class 1. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.
- (b) Trails for hiking, equestrian and mountain biking use.**
- (c) Pathways for pedestrian and bicycling use.**
- (d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).**
- (e) Scenic viewpoints and overlooks.**
- (f) Wildlife/botanical viewing and nature study areas.**

(g) River access areas.

~~(h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.~~

~~(i) Entry name signs not to exceed 10 square feet per sign.~~

~~(hj) Boat docks, piers or wharfs.~~

~~(ik) Picnic areas.~~

~~(jl) Rest-rooms/comfort facilities.~~

(2) Recreation Intensity Class 2 - Low Intensity

Social Setting: Recreation Intensity Class 2 is characterized by opportunities to experience relaxation, physical fitness and outdoor learning and where there is a moderate probability to experience solitude. Typically encounters with other visitors throughout the designation is Low to Moderate. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads, and moderate to high near (within 1 mile) recreation sites and roads.

Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.

The following uses may be permitted:

(a) All uses permitted in Recreation Intensity Class 1.

(b) Parking areas for a maximum not to exceed a site-wide capacity of 25 cars, including spaces for campground units, to serve vehicles, when associated with any allowed uses in Recreation Intensity Class 2. Parking spaces for campground units shall be included in this number. Accommodations for mass transportation facilities should be considered where compatible with the social and physical setting.

~~(c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.~~

~~(d) Entry name signs not to exceed 20 square feet per sign.~~

~~(ce) Boat ramps, not to exceed two lanes.~~

~~(df) Campgrounds for 20 units or less, tent sites only.~~

(3) Recreation Intensity Class 3 - Moderate Intensity

Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.

Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.

Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

The following uses may be permitted.

(a) All uses permitted in Recreation Intensity Classes 1 and 2.

~~(b) Parking areas for a maximum of not to exceed a site-wide capacity of 75 cars/vehicles, when associated with including spaces for campground units, for any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units shall be included in this number.~~

~~(c) Facility Accommodations of facilities for mass transportation (bus parking, etc) shall be required for all new Recreation intensity Class 3 day-use recreation sites, and improvements to Existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.~~

~~(e) Interpretive signs, displays and/or facilities.~~

~~(d) Visitor information and environmental education signs, displays or facilities.~~

~~(e) Entry name signs not to exceed 32 square feet per sign.~~

~~(df)~~ Boat ramps, not to exceed three lanes.

~~(eg)~~ Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.

~~(fh)~~ Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

(4) Recreation Intensity Class 4 - High Intensity

Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within in this designation.

Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.

The maximum site design capacity for parking areas shall not exceed 250 vehicles for any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units are to be included in this number.

Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.

The following uses may be permitted:

(a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(b) Parking areas , not to exceed a side-wide capacity for a maximum of 250 ~~cars~~ vehicles, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.

(c) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites

and improvements to existing Class 4 day-use recreation sites where the improvement would increase the use of the site, except for sites predominately devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

(d) Horseback riding stables and associated facilities.

~~(d) Entry name signs, not to exceed 40 square feet per sign.~~

(e) Boat ramps.

(f) Campgrounds for 175 individual units or less for tents ~~and~~/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of the Public Recreation designation shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines Sections 520 through 620 and shall satisfy the following:

(a) Cumulative effects of proposed recreation projects on Landscape Settings shall be based on the "compatible recreation use" guideline for the Landscape Setting in which the use is located.

(b) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and ~~on~~-site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(c) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the rural fire protection district) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(d) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan, as follows:

(A) Where applicable, new trails should incorporate existing segments of older or historic trails, abandoned roads and railroad rights-of-way, and other previously developed areas suitable for recreation use to the maximum extent practicable.

(B) ~~(B)~~ Trails that are intended for multiple user groups shall be required to post signs at trailheads alerting users that multiple user groups may be present on the trail. Trails shall be designed such that user conflicts and safety issues are minimized.

(C) Applications for new trails and trailheads shall include measures to minimize the potential spread of noxious weeds.

(~~C~~D) Applications for new trails or trailheads shall consider the potential of fire risk during critical fire hazard periods in developing the physical and managerial setting of the site.:

(e) For proposed projects providing boating or windsurfing recreation access to the Columbia River or its tributaries: applicants shall demonstrate that the new facility is consistent with and does not affect or modify tribal treaty rights, compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.

(f) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with the guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

(g) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

- (h) ~~For proposed Recreation Intensity Class 4 projects (except for projects predominantly devoted to boat access):~~

~~A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site. Applications for public recreation development in Recreation Intensity Classes 3 and 4 shall demonstrate how the proposed recreation development will be equitable and accessible (regardless of income level, ethnicity, gender, ability, or age.) Applications for public recreation developments in RIC 1 and 2 shall meet this standard to the maximum extent practicable.~~

- ~~(i) Applications shall demonstrate compliance with the social, physical, and managerial setting characteristics in the applicable Recreation Intensity Class description.~~

(6) Variances and Plan Amendments

- ~~(a) A variance to the setback and buffer requirements contained in this chapter may be granted pursuant to the requirements of Section 150(2)(c) and (d).~~

(67) Facility Design Guidelines for All Recreation Projects

- (a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses ~~and/or~~ facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses ~~and/or~~ facilities.
- (b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. ~~For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.~~

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

- ~~(e) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.~~
- (cd) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, ~~and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers. These trees may be used to satisfy requirements for perimeter and interior landscaped buffers.~~
- (de) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.
- (ef) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable..
- (fg) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.
- (gh) Signsage shall be limited to ~~that those~~ necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.
- ~~(i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.~~
- (hj) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Director may allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

- ~~(ik)~~ A majority of trees, shrubs and other plants in landscaped areas shall be species native ~~or naturalized~~ to the Landscape Setting in which they occur (Landscape Setting design guidelines specify lists of appropriate species). Project applicants that are required to use new landscaping are encouraged to place trees, shrubs, and other plants in a manner approximating their natural condition.
- ~~(l)~~ All structures shall be designed such that height, exterior colors, reflectivity, mass, and siting result in the structures blending with and not noticeably contrasting with their setting.
- ~~(m)~~ Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.
- ~~(n)~~ Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.
- ~~(o)~~ Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.
- ~~(p)~~ Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Director, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.
- ~~(kq)~~ Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.
- ~~(r)~~ All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

(~~l~~s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

(~~m~~t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

~~(u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified Recreation Intensity Class 4 (except for proposals predominantly devoted to boat access) shall comply with Section 610(5)(i) regarding provision of mass transportation access.~~

## 620. Special Management Area Recreation Resource Review Criteria

- (1) The following shall apply to all new recreation developments and land uses in the Special Management Area. ~~When planning new interpretive or education programs and/or facilities, recommendations of the Interpretive Strategy for the Columbia River Gorge National Scenic Area shall be followed. (This document is available at the Gorge Commission office in White Salmon and the Forest Service office in Hood River.)~~
  - (a) New developments and land uses shall not displace existing recreational use.
  - ~~(b) Only natural resource based recreation shall be allowed.~~
  - (eb) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.
  - (dc) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.
  - (ed) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.
  - (fe) ~~The facility guidelines~~ Facility Design Guidelines contained in Sections 620(1) and (2) are intended to apply to individual recreation facilities. ~~For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.~~ Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).
  - (gf) New development and reconstruction of scenic routes ~~(see Part III, Chapter 1 of the Management Plan)~~ shall include provisions for bicycle lanes.
  - (hg) The Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:
    - (A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from the National Scenic Area recreation demand

~~studies~~ Visitor Use Monitoring Program shall be relied upon to meet the criterion in the absence of current applicable studies.

- (B) The proposed use is dependent on resources present at the site.
- (C) Reasonable alternative sites, including those in uUrban aAreas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.
- (D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan: the Management Plan.
- (E) Through site design and ~~or~~ mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.
- (F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting or modifying treaty rights.
- ~~(G) Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.~~

(2) Special Management Areas Recreation Intensity Class Guidelines

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, subject to compliance with the “Facility Design Guidelines For GMA and SMA Recreation Projects” (Section 610(7)).

(a) Recreation Intensity Class 1 - Very Low Intensity:

Emphasis is to provide opportunities for semi-primitive recreation opportunities.

- (A) ~~Permitted uses are those in which people participate in outdoor activities to realize experiences including but not limited to, solitude, tension reduction, and nature appreciation.~~  
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 recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

(B) Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

(C) Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

~~(BD)~~ The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

~~(CE)~~ The following uses may be permitted:

- (i) Trails and trailheads.
- (ii) Parking areas.
- (iii) Dispersed campsites accessible only by a trail.
- (iv) Viewpoints and overlooks.
- (v) Picnic areas.
- (vi) Signs.
- (vii) Interpretive exhibits and displays.
- (viii) Restrooms.

(xi) Accomodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(b) Recreation Intensity Class 2 - Low Intensity

~~Emphasis is to provide semi-primitive recreation opportunities.~~

~~(A)(A)~~ Social Setting: Recreational Intensity Class 2 is characterized by opportunities to experience relaxation. Permitted uses are those that provide settings where people can participate in activities such as physical fitness, and outdoor learning, relaxation, and escape from noise and

~~crowds, and where there is a moderate probability to experience solitude. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads. Unusually moderate to high near (within 1 mile) recreation sites and roads.~~

(B) Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

(C) Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.

~~(BD) The maximum site design capacity shall not exceed 70 people at one time on the site.~~ The maximum design capacity shall be 25 vehicles.

~~(CE)~~ All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) ~~Campground for twenty (20) units or fewer, tent sites only, with vehicle access.~~

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(iv) Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(c) Recreation Intensity Class 3 - Moderate Intensity:

~~Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.~~

~~(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity. Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters~~

are moderate to high on trails away from developed recreation sites and roads.

(B) Physical and Managerial Setting: Changes to the natural landscape, yet can may be evident but in harmony with natural characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural environment.

(C) Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

(D) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(BE) ~~Maximum site design capacity shall not exceed 250 people at onetime on the site.~~ The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass Transportation facilities shall reflect the physical capacity of the site.

(D) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

- (i) Campgrounds improvement may include water, power, sewer, and sewage dump stations. Campgrounds shall not exceed a combination of 50 single or group campsites (tent or recreational vehicle) and a total design capacity of 250 people at one time.
- (ii) Boat anchorages designed for not more than 15 boats.
- (iii) Public visitor, interpretive, historic, and environmental education facilities.

- (iv) Full service rest-rooms, may include showers.
- (v) Boat ramps.
- (vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity:

~~Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.~~

~~(A) (A) Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within in this designation.~~

~~(B) Physical and Managerial Setting: Landscapes with natural appearing backdrop are characterized by this designation. Highly developed recreation facilities and trails are constructed for visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape setting.~~

~~(C) Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.~~

~~(D) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.~~

~~(BE) The maximum design capacity shall not exceed 1000 people at one time on the site.~~ The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

~~(EF)~~ Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites and improvements to existing Class 4 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical

capacity of the site.

(DG) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4. The following uses may also be permitted:

(i) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations. Campgrounds shall not exceed a combination of 100 single or group campsites (tent or recreational vehicle) and a total design capacity of 500 people at one time.

### 635. Enforcement

- (1) Failure to comply with provisions in this Ordinance, including any conditions of approval will require the County, through the Planning and Community Development Department, to seek enforcement.
- (2) Violation of the NSA Ordinance will be processed pursuant to applicable provisions in Article ~~70-Enforcement 1, Sections 1.130 through 1.150~~ of the Hood River County Zoning Ordinance ~~or, if applicable, provisions in Article 68-Revocation.~~
- (3) In addition to any penalty assessed by Hood River County, Congress authorized the Columbia River Gorge Commission to assess a civil penalty in order to prevent violation of provisions of this Ordinance. The penalty may not exceed \$10,000-~~00~~ per violation.

## Section 640. Notice of Application Requirements

<b>STEP 1:</b>	<b>Send notice of application to:</b>
All Expedited Review Uses	Tribes, USFS, <del>County</del> <u>Gorge Commission</u>
All Full Review Uses	Tribes, USFS, <del>County, State</del> <u>Gorge Commission</u>
<b>STEP 2:</b>	<b>Additionally send to:</b>
<ul style="list-style-type: none"> <li>• Single family dwellings in the GMA Residential Land Use Designation adjacent to GMA Agriculture or Forest Land Use Designations;</li> <li>• Commercial events and special uses in historic buildings adjacent to GMA Agriculture or Forest Land Use Designations;</li> <li>• Non-farm single family dwellings in the GMA Large-Scale Agriculture Land Use Designation;</li> <li>• Within GMA Forest Land Use Designations: utility facilities, railroads, home occupations, fruit &amp; produce stands, wineries, wine sales/tasting rooms, ag. product processing and packaging, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/batch plants, expansion of non-profit camps/retreats/conference centers, B&amp;Bs, non-profit learning/research facilities, fish processing operations, road spoils disposal sites</li> </ul>	Landowners within 500 feet
All other Full and Expedited Review Uses	Landowners within 200 feet
<b>STEP 3:</b>	<b>Additionally send to:</b>
All Full and Expedited Review Uses within 1000 feet of a sensitive wildlife area or site	State Department of Wildlife
All Full and Expedited Review Uses within 1000 feet of a rare plant	State Natural Heritage Program
All Full and Expedited Review Uses within Agriculture-Special Land Use Designation	State Natural Heritage Program

