



MEMORANDUM

September 9, 2025

TO: Gorge Commissioners

FROM: Krystyna Wolniakowski, Executive Director
Bryce Guske, Senior Land Use Planner
Mackenzie Aamodt, Land Use Planner
Jeff Litwak, Counsel

SUBJECT: Staff Report Introducing Concepts for Plan Amendments to Clarify and Address Landowners' Needs for Disaster Recovery

Action Requested:

Staff will present its progress toward developing a plan amendment to clarify existing provisions and address landowners' needs to recover and rebuild after a disaster. The agenda for this meeting also invited residents and landowners to present their recovery and rebuilding experiences in the first few critical weeks and months after the Rowena and Burdoin fires. Staff will also answer your questions.

Background:

At the July 2025 Gorge Commission meeting, staff informed the Gorge Commission that it would research whether the Management Plan adequately provides for Gorge communities and landowners to recover and rebuild after a disaster. This was in response to the devastating Rowena fire in June 2025 in a large area of National Scenic Area land in Wasco County. The Gorge Commission decided to initiate a plan amendment. And then, tragically, a few days after the July meeting, the Burdoin fire erupted and raced through a large area of National Scenic Area land in Klickitat County. In both fires, dozens of landowners and residents lost their homes and outbuildings, and more.

After several weeks of researching recovery and rebuilding in Oregon, Washington and other states and communities that have suffered recent disasters, and talking to Gorge landowners, Gorge counties, and more, staff recommends that the Management Plan needs clarifications and lacks elements that would assist Gorge communities and landowners who seek to recover and rebuild their property. Since the July Gorge Commission meeting, staff has attended community meetings,

and meetings with state and local officials to learn about the disaster, the questions and issues they are experiencing with landowners who are beginning their recovery, and to begin coordinating on response, recovery, and rebuilding. So far, staff also has met with 15 Klickitat County landowners or their representatives to discuss permitting to replace their lost homes and structures. Staff can answer your questions about its fire recovery work at the Gorge Commission meeting.

These meetings and interactions have been crucial in understanding clarifications and changes to the Management Plan that will improve community recovery and the experience of National Scenic Area residents and landowners.

Staff has identified several concepts for a legislative plan amendment. While staff was doing its work, Wasco County identified concepts for amending the Management Plan based on its experience assisting landowners with their recovery from the Rowena fire. Not surprisingly, staff and Wasco County identified many of the same issues and landowner experiences, and staff and Wasco County have joined efforts to produce a single set of concepts for the Gorge Commission's consideration. Staff has met with the Klickitat County and Skamania County boards of commissioners to explain that it is working on this plan amendment and Wasco County is reaching out to the other county planning directors to introduce them to these concepts and the eventual proposed plan amendment text.

Staff has also met with the U.S. Forest Service to review these concepts because the Secretary of Agriculture will need to adopt the plan amendment text to make it effective in the special management areas.

Staff will continue to work with the Forest Service and Wasco County when it begins drafting proposed plan amendment text with the goal of presenting text that reflects a consensus of the Gorge Commission staff, the Forest Service, and the counties.

Plan Amendment Concepts

The purpose of this plan amendment is to address the recovery needs of landowners and to clarify existing provisions in the Management Plan to assist counties in interpreting and applying their National Scenic Area standards for replacement of structures and uses lost in a disaster. This plan amendment has a narrow scope. Staff has heard many issues relating to recovery that are beyond the scope of this plan amendment. Below are the concepts that are within the scope of this plan amendment. The end of this staff report lists issues that are outside the scope of this plan amendment.

The current replacement provisions in the Management Plan apply to GMA and SMA parcels, except that there is one landscaping provision specific to in-kind replacements in the GMA and one landscaping provision specific to in-kind replacements in the SMA. Staff is not proposing to amend the SMA-specific landscaping provision, but staff envisions that the clarifications and changes would apply to the GMA and SMA in the same way that the original guidelines already do. Thus, for example, if the Gorge Commission lengthens the time to submit an application for an in-kind replacement, that longer time period would apply to both GMA and SMA parcels, and if the Gorge Commission allows temporary hardship dwellings for disaster recovery, those would be allowed in the same GMA and SMA land use designations where they are currently allowed for health hardships.

The Gorge Commission's decision to amend the provisions is only effective as applied to the GMA. The U.S. Forest Service Area Manager (Commissioner Mickley) will need to amend the provisions as applied to the SMA, which she can do concurrently with the Gorge Commission's action. The Gorge Commission and Forest Service staffs met and the Forest Service is generally comfortable with the plan amendment concepts developed to date.

Process Clarifications and Changes

- Lengthen time for submitting an application to replace a structure; this would apply to in-kind and non-in-kind replacement structures.

Currently, the Management Plan requires a landowner to submit a complete land use application within two years after a disaster. A temporary law in Oregon responding to the 2020 fires allows five years to submit an application, but DLCD staff believes this is not enough time for many people. DLCD staff mentioned seven years. Information that staff has researched about other fires throughout the country shows that not all permitting occurs within two, five, or seven years.

- Lengthen time for a landowner to commence construction.

Currently, the Management Plan requires a landowner to commence construction within two years after receiving their decision and allows a one-year extension. Oregon's temporary law allows 10 years to commence construction, but DLCD staff believes this is not enough time for many people. Some of the information that staff has researched about other fires throughout the country shows that rebuilding all destroyed and damaged buildings takes longer than ten years.

- Expressly allow existing non-structural land uses to restart or continue without review.

Oregon's temporary law clarifies that non-structural land uses may continue as they lawfully did so prior to the disaster. A similar provision in the National Scenic Area would, for example, ensure that a landowner could continue a previously permitted home occupation while the landowner is working on rebuilding.

- Clarify that in-kind replacements are reviewed using expedited review procedures.

Currently, the NSA provisions for in-kind replacement structures do not specify how an in-kind replacement structure should be reviewed—as an expedited use or as a full review. This clarification relates to and depends on the Gorge Commission's interpretation of what standards apply to in-kind replacements (the next bullet statement below).

Standards Clarifications and Changes

- Clarify what standards apply to in-kind replacements structures.

The Management Plan currently states, "The replacement structure shall only be subject to the following scenic resources standards: [and lists color, reflectivity, and landscaping standards]." The guideline can be interpreted to mean that the color reflectivity and landscaping standards are the only standards that apply to in-kind replacement structures or that they are the only scenic standards that apply and the other standards in the Management Plan (such as cultural and natural resource standards) also apply to in-kind replacement structures.

- Clarify the requirements for in-kind replacement structures to be in the “same location” and the “same size and height.”

The term “same location” is not clear about how much of the original site must be used. For example, can a replacement structure use just a small corner of the original site, or must it be centered on the original site and use the same north, south, east, west orientation?

The Management Plan allows a landowner to increase the size of a structure by 10%. This flexibility may be too limiting for small structures (such as homes that were less than 1000 square feet) and too much for large structures that would exceed a size considered compatible for the vicinity. The 10% flexibility also does not take into account manufactured structures, such as pole barns and manufactured homes, which may no longer be available in the original dimensions and which the closest size is either smaller or greater than 10% larger.

The guideline for height includes a reference to wall height, which may be different in current building codes than for the original structure. The guideline for height also does not account for changes in manufactured home construction and does not address situations such as whether a different roof shape can qualify as the “same size and height.”

- Permanent replacement of infrastructure (especially septic systems) may need to meet current standards that would not be in-kind.

For example, current standards might require infrastructure to exceed 10% larger, require moving infrastructure due to changed site conditions, or require moving infrastructure to comply with building, electrical, health, and other codes (such as new distance requirements between a home and septic system). The Management Plan does not expressly address the situation whether, for example, the need to replace a septic system in a new location means that an otherwise “in kind” replacement structure could still be considered “in kind.”

- How should staff verify an engineering opinion that says an original site is unsuitable to build the replacement structure?

Temporary Structures and Land Uses Useful for Recovery and Rebuilding

- The Management Plan does not address temporary residences while recovering and rebuilding, such as a recreational vehicle, yurt, or manufactured home on the subject parcel, nearby parcel, or campground.

Currently, the Management Plan defines “Camping or recreational vehicle” to allow for only 60 days of occupancy in a calendar year. Currently, the Management Plan does not specifically allow temporary residences; however, some applications allow temporary residences on a case-by-case basis while a landowner is constructing a primary dwelling.

- Long-term use of agricultural labor housing as temporary housing.

Currently, the Management Plan allows agricultural labor housing to be occupied for up to nine months. Longer term occupancy may not be possible where existing agricultural labor housing does not meet current Oregon OSHA standards.

- Allow hardship dwellings for use by persons displaced by a disaster.

Currently, where the Management Plan allows hardship dwellings on a subject parcel, the hardship is when a relative has a health condition that requires assistance. The provisions for hardship dwellings could be amended to include any person displaced by a disaster or a relative

displaced by a disaster. Staff has not considered changing the land use designations where hardship dwellings are permitted.

- Ensure that placement of a temporary residence on a parcel includes consideration of temporary infrastructure.
- Allow a temporary structure for storage and land management equipment, such as a shipping container.

Staff has heard from landowners who want to use a temporary structure for storing debris, construction materials and equipment, or other materials resulting from recovery efforts or otherwise associated with damage caused by a disaster, and for storing land management equipment where a farm building or accessory building was damaged or destroyed.

Overview of the Plan Amendment Process:

The proposed plan amendment would be a legislative plan amendment. A legislative plan amendment applies to a large area, or in this case, the entire National Scenic Area, and sets general standards for that area. In contrast, a “quasi-judicial” plan amendment applies to only a specific parcel or a small number of parcels. Commission Rule 350-50-040(3) defines these two types of plan amendments.

A legislative plan amendment has four steps:

1. Commission Rule 350-50-080: The Gorge Commission must give notice that it is proposing a legislative plan amendment. This rule specifies that the notice must be published in one or more local newspapers and that public comment is allowed within the comment period in the notice. The rule does not specify when the newspaper notice must be published, does not require publishing proposed text (this comes later with the staff report discussed below) and does not specify a minimum comment period. The proposed text must be available at the Gorge Commission office.

The intent of the notice is to give people an opportunity to comment to the Gorge Commission on whether to undertake a plan amendment. The Gorge Commission provided this opportunity at the July Commission meeting. Staff will provide notice of the staff report and proposed text (see next step below) and publish that notice in a local newspaper.

2. Commission Rule 350-50-090: The Executive Director must prepare a staff report that analyzes the proposed amendment based on the criteria in 350-050-030, including how conditions in the National Scenic Area have significantly changed, consistency with the standards and purposes of the National Scenic Area Act, and practicable alternatives. This is the point in time when the text of a legislative plan amendment must be completed and available to the public.
3. Commission Rule 350-50-100(1): The Gorge Commission must give a minimum 30-day comment period on the staff report prior to holding a hearing. Staff will provide this notice soon after the September Gorge Commission meeting and will publish the notice in one or more local newspapers.
4. Commission Rule 350-50-100(3): The Gorge Commission must hold a public hearing and vote on the proposed plan amendment. Staff is working on the plan amendment research, text, staff

report, and notice and comment period with an eye toward scheduling the hearing at the Gorge Commission’s November 2025 meeting.

Staff’s Working Timeline:

Staff developed two timelines for this plan amendment. The first timeline shows the fastest possible time for completing the plan amendment. The second timeline includes a Gorge Commission workshop on the proposed plan amendment text before sending that text for the 30-day comment period required in the Gorge Commission’s rules. The workshop is not required in our rules and it would slow down the plan amendment. Staff cautions that unexpected challenges may alter either timeline.

	Fastest Possible Timeline	If the Commission Wants to Workshop the Proposed Plan Amendment Text Prior to Public Comment
Hearing on Proposed Plan Amendment	Nov. 12, 2025	Jan. 13, 2026
Finalize Staff Report Based on Public Comment	Nov. 4, 2025	Jan. 5, 2026
End of Comment Period on Staff Report	Oct. 21, 2025	Dec. 17, 2025
Send Staff Report and Proposed Text for 30-Day Comment Period	Sept. 18, 2025	Nov. 17, 2025
Commission Workshop on Proposed Plan Amendment Text		Nov. 12, 2025
Send Staff Report and Proposed Text for Public Comment		Between mid-Sept. and mid-Oct.
Gorge Commission Meeting on Plan Amendment Concepts	Sept. 9, 2025	Sept. 9, 2025

Outside the Scope of this Plan Amendment

Staff has identified many issues that are outside the scope of this plan amendment, which is focused on immediate needs for recovery and rebuilding from the 2025 fires. Many of these other issues are related to the emergency response provisions that require after-the-fact review and restoration where disaster response damaged the earth. Staff has recorded these issues to discuss during the next Management Plan review and will record new issues as they arise.

- The emergency response provisions do not address state and local environmental quality requirements to clear burned debris and contaminated soil. For example, does this task

constitute emergency response such that it can occur prior to cultural and natural resource surveys.

- Review provisions for how the address needs to immediately remove hazardous rocks and trees before reopening a road, trail, or land for use or occupancy, and provisions for replacing or mitigating these efforts.
- Consider whether the emergency response provisions apply to landowners who undertake their own emergency action to protect their structures; for example, can they create their own fire breaks and later restore the land?
- Review and consider whether or how to incorporate Oregon's or others' defensible space and home hardening requirements (including structure-to-structure distances). As of the date of this memorandum, the defensible space standards are still in draft form.
- Clearly specify that landowners may apply to modify the landscaping requirements in their prior approvals (such as to create defensible space). The Management Plan currently allows landowners to apply to revise their prior approvals.
- Research how states are changing infrastructure and utilities to account for heightened wildfire risk.
- How can the Management Plan ensure adequate clear space along RR tracks?
- Consider whether the Management Plan could allow some flexibility in fire protection and landscaping standards if a landowner works with their local fire district.
- Consider regulating the type and amount of material that can be stored on a parcel. These sites can increase fire risk and intensity, but enforcement is difficult.