



MEMORANDUM

March 10, 2026

TO: Gorge Commissioners

FROM: Jeff Litwak, Counsel

SUBJECT: Staff Report for Rules Committee Recommendation to Begin Rulemaking to Update Land Use Ordinance to Incorporate the Disaster Relief Plan Amendment

Action Requested

Direct staff to begin the rulemaking process using the draft rules attached to this staff report.

Important: The Gorge Commission is not holding a public hearing on proposed rules. Staff has not filed any rulemaking notices or text with the Oregon Secretary of State or the Washington Code Reviser. The draft rules attached to this staff report continue to be works in progress. The Gorge Commission will hold a public hearing on the rules after staff files notices of proposed rulemaking with the states.

Background

In January 2026, the Gorge Commission adopted an amendment to the Management Plan to assist landowners in their recovery from a disaster. The plan amendment clarified standards for landowners and allows landowners to apply for a temporary use of a recreational vehicle and a accessory structure during their recovery. On February 24, 2026, the U.S. Secretary of Agriculture concurred with the plan amendment.

The Gorge Commission instructed counties (and the Executive Director for Klickitat County) to apply the plan amendment directly prior to incorporating the plan amendment in their land ordinances, and the Executive Director is prepared to do so. However, the Executive Director wants to incorporate the plan amendment in the land use as quickly as possible and is prepared to start the rulemaking process right away.

Traditionally, the Gorge Commission previews draft rules and authorizes staff to begin the rulemaking process. This is the task of the Commission at this point in time.

The draft rules may change a little as staff prepares the rulemaking notices to reflect rulemaking requirements for style in the two states, but the substance of the rules should not change in any significant way. The Rules Committee has reviewed the drafts and recommends these are ready for rulemaking. Staff also discussed the draft with Wasco County as Wasco County is concurrently preparing to implement the plan amendment.

Introduction to the Draft

The draft rules largely follow the text of the adopted plan amendment. Staff changed the cross-references to refer to other rules rather than plan provisions. The Commission should focus its attention on Rule 350-082-0150(9). This is new text that implements the requirement in the plan amendment to approve temporary use of a recreational vehicle and accessory structure.

Staff is not recommending that a landowner complete an application for a temporary use. If a landowner informs staff they need a temporary use, staff will prepare a site plan showing where the landowner may place the temporary use consistent with the requirements to avoid sensitive resources and their buffer zones and ground-disturbing actions, and to use an existing access to a parcel, etc. Staff will provide the site plan and a letter with requirements for the use, including using only the location shown on the site plan, access, and timing for removal of the temporary use. The landowner will sign the letter acknowledging their understanding of the requirements for their temporary use. The letter and site plan will constitute the Executive Director's decision, which staff will send to the standard list of people and entities that receive copies of development review notices. The standard appeal period in the National Scenic Area Act will apply. Staff will show you a sample site plan and a template for the decision letter at the Commission meeting to give you a sense of what these will look like (staff is still refining the letter and will continue to refine the letter and site plans as we gain experience with allowing temporary uses).

Next Steps

If the Gorge Commission directs staff to proceed with rulemaking, staff will file the required notices of proposed rulemaking with the states, put the proposed rules on the Gorge Commission's website, and schedule a public hearing on the proposed rules at the next available regular meeting, most likely in the summer.

Staff will be ready to answer your questions at the March 10 Gorge Commission meeting.

Amendatory Section

350-082-0080. Application for Review and Approval Required

- (1) The application form required for National Scenic Area review is available at the Gorge Commission Office and on the Gorge Commission's website.
- (2) All proposed developments and land uses shall be reviewed according to the standards in effect on the date the applicant submits a complete application for National Scenic Area review.
- (3) A complete application is one that the Executive Director determines meets the requirements in this land use ordinance for a complete application form, a complete site plan showing the proposed site (site plans with alternative sites or building envelopes are not sufficient), all applicable information specified in the various sections of this land use ordinance, and other information that the Executive Director requires to make findings based on substantial evidence in the whole record and conclusions for compliance with the guidelines in this land use ordinance.
- (4) The Executive Director will not accept an incomplete application for review.
- (5) Prior to accepting an application or at any time during review of an application, the Executive Director may require the applicant to amend an application or withdraw an application and file a new application to resolve violations of applicable National Scenic Area standards or a prior Executive Director decision at the same time as the current application.
- (6) The Executive Director shall accept and review the application pursuant to the procedures and requirements in 350-082-0080 through 350-082-0170 for consistency with the appropriate guidelines of this land use ordinance.
- (7) The Executive Director may charge a fee for review of applications. The Gorge Commission shall set the fee after a public hearing.
- (8) Applications for National Scenic Area review of a proposed use or development shall provide the following information.
 - (a) The applicant's name, mailing address, telephone number, and email address;
 - (b) The name, mailing address, telephone number, and email address of the landowner and all other persons or entities that hold easements or other partial interests that give a right to use or refuse use of land, as determined by the Executive Director;
 - (c) The county in which the proposed use or development would be located;
 - (d) The section, quarter section, township and range in which the proposed development would be located;
 - (e) The street address of the proposed use or development;
 - (f) The tax lot number(s) and size in acres of the parcel(s) involved;

- (g) A description of the current land use for the parcel(s) involved and adjoining lands;
- (h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures;
- (i) A list of Key Viewing Areas from which the proposed use would be visible;
- (j) 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 Executive 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 map shall be prepared at a scale of one inch equals 200 feet (1:2,400), or a scale providing greater detail. 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. 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.g.*, cliffs, rock faces, slopes, stands of trees);
 - (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, including intermittent and ephemeral streams;
 - (H) Location and width of existing and proposed roads, driveways, and trails;
 - (I) Location, dimensions, height, and size (in square feet) 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; and
 - (K) Location and depth of all proposed grading and ditching
- (k) 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 and include sizes and dimensions of windows, doors, and covered openings;
- (l) The following applications for structural development shall include a grading plan:

- (A) Applications involving more than 100 cubic yards of grading with slopes greater than 10 percent, except applications for trails in the SMAs.
- (B) Applications involving more than 200 cubic yards of grading on sites visible from key viewing areas.
- (C) Grading plans shall include the following:
 - (i) 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.
 - (ii) 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.
- (m) A list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in 350-082-0110 Table 1 – Notice Requirements;
- (n) Any additional information that the applicant feels will assist in the evaluation of the proposal, including but not limited to, maps, drawings, and development plans; and
- (o) The signature of the applicant, and the signature or other statement of the landowner and other persons or entities that hold easements or other partial interests that give a right to use or refuse use of land, as determined by the

Executive Director indicating that they are aware of the application and that authorizes the Executive Director or the Executive Director's designee reasonable access to the site in order to evaluate the application and to conduct inspections during construction of an approved development or land use, and a final inspection when construction is completed.

- (9) The Executive Director may require additional information necessary to demonstrate compliance with this land use ordinance, including but not limited to, a professional land survey and staking of proposed structure and building locations that are close to a property or buffer boundary, a professionally drawn site and landscaping plan, and copies of or other proof of prior building permits and land use permits.
- (10) The Executive Director shall provide ~~Firewise~~ defensible space information to applicants with application forms and encourage and assist applicants to incorporate ~~Firewise~~ defensible space standards in their proposals as appropriate and as consistent with the resource protection provisions in the Management Plan.
- (11) Requirements for applications for Emergency/Disaster Response Actions are contained in 350-082-0230.
- (12) Completed application forms shall be submitted directly to the Gorge Commission office.

Amendatory Section

350-082-0150. Decision of the Executive Director

- (1) In making a decision on a proposed use or development the Executive Director shall:
 - (a) Consult with the applicant, federal, state, local, and tribal agencies, and interested persons and entities as required in this land use ordinance or that the Executive Director at their discretion deems appropriate;
 - (b) Consider information submitted by the applicant and all other available relevant information;
 - (c) Develop new information necessary to evaluate the application;
 - (d) Consider all comments submitted pursuant to 350-082-0120 through 350-082-0140; and
 - (e) Solicit and consider the comments of the Forest Service.
- (2) The Executive Director shall approve a proposed use or development only if it is consistent with the approval criteria in this land use ordinance. In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of this land use ordinance.
- (3) Applicants shall record the Executive Director's decision and conditions of approval in county deeds and records to ensure notice of the conditions to successors in interest. The record shall be associated with all tax lots and parcels that constitute the subject property. Applicants need not record a separate staff report document

containing the relevant findings and conclusions. The Executive Director's decision shall include a statement specifying this recording requirement.

- (4) The Executive Director's decision may require one or more inspections during construction of a development or land use and a final inspection. If the Executive Director's decision requires an inspection, the landowner shall permit the Executive Director on the property at a reasonable time to conduct the inspection.
- (5) The Executive Director shall issue a decision within 135 days after accepting the application, except in one or more of the following situations:
 - (a) The applicant consents to an extension of time;
 - (b) The Executive Director determines that additional information or consultation is required pursuant to 350-082-0130 or 350-082-0140; or
 - (c) Unforeseen circumstances including, but not limited to, weather, illness, etc.
- (6) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state agencies, the four tribal governments, the applicable county and city (if the subject parcel is located within or adjacent to a city boundary) and each person who submitted comments. The decision shall set forth the rights of appeal under Commission Rule 350-70.
- (7) The decision of the Executive Director becomes final at the end of the appeal period unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. No person shall begin any approved land use or development during the appeal period.
- (8) The Executive Director may withdraw a decision during the appeal period if they discover new facts or legal issues that could materially change conditions of approval or the decision. The Executive Director shall use this authority sparingly. If the Executive Director withdraws a decision, they shall provide notice of the withdrawal to all agencies, entities, and persons who received the original decision and a new notice of the proposed development with the new facts or explanation of the legal issues and provide a new comment period. The Executive Director shall issue a new decision as soon as possible after the end of the new comment period.
- (9) This section applies to temporary structures and uses as allowed in 350-082-0200(5). The Executive Director does not require an application for a temporary structure or use. The Executive Director shall issue a letter and site plan to a landowner approving a temporary structure or use.
 - (a) The approval shall contain the expiration date and conditions of approval for the temporary structure or use, a list of persons to whom the Executive Director sent a copy of the approval, and a statement of the right to appeal.
 - (b) The site plan for the approval shall show the parcel boundaries, access road or roads, buffer zones required in Commission Rule 350-082, topography, other relevant features as necessary to establish compliance with 350-082-

0200(5), and one or more locations where a temporary structure may be placed consistent with 350-082-0200(5).

- (c) The Executive Director shall send a copy of the approval to persons entitled to receive notice of Full Review Uses as provided in 350-082-0110(2).

Amendatory Section

350-082-0200. Existing Uses and Discontinued Uses

- (1) Right to Continue Existing Uses and Structures. 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) Changes to Existing Uses and Structures. 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 Commission Rule 350-082. Changes to exterior color and replacing siding, windows, chimneys, fences, paving; and other similar exterior features is considered a change to an existing structure.
- (a) Expansion of Existing Commercial and Multifamily Residential Uses: In the SMAs, 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) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this guideline, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.
- (c) 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:
- (A) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMAs.
- (B) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.
- (3) Replacement of Existing Structures Not ~~Damaged or~~ Destroyed by Disaster. Except as provided in section (4) below, 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~~ in accordance with the following standards:

- (a) The replacement structure shall have the same use as the ~~original existing~~ existing structure.
 - (b) The replacement structure may have a different size or location than the ~~original existing~~ structure. An existing manufactured home may be replaced with a framed residence and an existing framed residence may be replaced with a 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.~~
- (4) Replacement of Existing Structures ~~Damaged or Destroyed~~ by Disaster. 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 in accordance with the following standards:
- (a) If the replacement structure does not comply with subsections (4)(c) through (4)(d) below, then it shall be subject to section (3) above and the time period in subsection (4)(g) below.
 - (b) As used in sections (4), (5), and (6), the term “original structure” or “original dwelling” means the structure or dwelling that was destroyed and was an existing structure or dwelling as defined in the Management Plan.
 - (ac) The replacement structure shall have the same use as the original structure. An existing manufactured home may be replaced with a framed residence.
 - ~~(bd)~~ The replacement structure and utilities shall be in the same location as the original structure and utilities. The same location means that the footprint of the replacement structure is centered on the footprint of the original structure using the same orientation as the original structure or rotating the orientation by up to 10 degrees. The footprint of the replacement structure may extend no more than 10 percent beyond any one or more sides of the original footprint. The footprint of a structure includes any covered decks and porches, attached garages, and breezeways that share a wall with the structure. An exception may be granted and the replacement structure may be sited in a different location if the replacement structure complies with all the following guidelines:

- (A) ~~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.~~
- (B) ~~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.~~
- (C) ~~The new building site complies with 350-082-0600 through 350-082-0720.~~
- (ee) The A replacement structure shall be not exceed the same square foot size, footprint, and height as the original structure, ~~provided:~~ The size, footprint, and height of a building include any covered decks and porches, attached garages, and breezeways that share a wall with the structure. The following adjustments to size, footprint and height are permitted for replacement structures:
- (A) ~~The footprint square foot size of the a replacement structure may be up to ten percent larger than the footprint square foot size of the original structure. The size, footprint, and height of a structure building includes any covered decks and porches, attached garages, and breezeways that share a wall with the structure. The following adjustments to size, footprint, and height are permitted for replacement structures:~~
- (i) ~~If the original structure was 1250 square feet or smaller in size, the replacement structure may be built up to 20 percent larger than the original structure.~~
- (ii) ~~If the original structure was larger than 1250 square feet in size and no larger than 2000 square feet in size, the replacement structure may be built up to 1500 square feet in size or 10 percent larger than the original structure, whichever is larger.~~
- (iii) ~~If the original structure was larger than 2000 square feet in size and no larger than 2850 square feet, the replacement structure may be built up to 2200 square feet in size or 5 percent larger than the original structure, whichever is larger.~~
- (iv) ~~If the original structure was larger than 2850 square feet, the replacement structure may be built up to 3000 square feet in~~

size or the same size as the original structure, whichever is larger.

- (B) Notwithstanding the allowance for larger replacement structures in paragraph (A) above, the footprint of a replacement accessory building or buildings shall not exceed the footprint permitted for accessory buildings in the applicable land use designation, except, if the footprint of an original accessory building or buildings exceeded the footprint permitted for accessory buildings in the applicable land use designation, the replacement accessory building or buildings shall not exceed the original footprint of the accessory building or buildings.
- (~~BC~~) The walls of the replacement structure shall ~~be the same~~ not exceed the height as of the walls of the original structure unless an ~~minor~~ increase is required to comply with standards in the current jurisdictional building code. Wall 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. And the lowest wall-to-roof connection of each wall. For a manufactured dwelling, the interior wall height may be up to 9 feet as measured from the finished floor to the finished ceiling.
- (~~D~~) The overall height of the replacement structure as measured from the lowest finished grade to the highest point of the roof shall not exceed the height of the original structure. The roof of the replacement structure shall be the same style (e.g., hip, gable, flat) and the same or lower slope as the roof of the original structure to keep the same height. The slope and height of the roof of a replacement structure may exceed the slope and height of the original structure only as required to comply with applicable building codes. Where an original structure protruded above the skyline, the replacement structure shall not protrude farther above the skyline. Where the height of a replacement structure protrudes farther above the skyline than the original structure, a different roof shape shall be used to reduce the protrusion to the original amount of protrusion.
- (~~E~~) If, after applying paragraphs (A) through (D) above, an applicant demonstrates that the size, footprint, or height of a replacement manufactured dwelling that is closest in size, footprint, or height of the original manufactured dwelling is not reasonably available (e.g., considering time to manufacture, distance to manufacturer, cost to customize, and similar factors), then the applicant may place a manufactured dwelling that is closest in size, footprint, and height to the original manufactured dwelling, even if it exceeds the standards in paragraphs (A) through (D) above.

(f) In addition to the standards in subsections (4)(a) through (4)(e) above, the replacement structure shall only be subject to the following scenic and cultural resources standards: (and not other standards in Commission Rule 350-082). These standards apply to all replacement structures, including replacement structures for original structures that existed prior to the National Scenic Area Act.

(A) Scenic Resources

(Ai) In the GMA, the replacement structure shall comply with the guidelines regarding color and reflectivity in 350-082-0600. In the SMAs, the replacement structure shall comply with the guidelines regarding color and reflectivity in 350-082-0610. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(Bii) 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.

(Ciii) In the GMA, the replacement structure shall comply with the GMA guidelines regarding landscaping (350-082-0600). These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable and may take into account recommendations for defensible space in the *Scenic Resources Implementation Handbook*.

(Div) In the SMAs, the replacement structure shall comply with the SMA guidelines regarding landscaping (350-082-0610). These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(iI) Use of plant species appropriate for the area and minimum sizes of new trees needed to achieve the standard (based on average growth rates expected for the recommended species) are required. Examples of native specific are identified in the *Scenic Resources Implementation Handbook* as appropriate to the area.

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

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

(v) A significant historic structure that was destroyed by disaster and that is preserved, rehabilitated, restored, or reconstructed in accordance with the National Register of Historic Places guidelines (for structures in the SMA) or the National Park Service regulations for structures included in, or eligible for inclusion in, the National Register of Historic Places (for structures in the GMA) shall not be subject to paragraphs (4)(e)(A) through (4)(e)(D) above.

(B) Cultural Resources

(i) In the General Management area, if the structure is replaced in the identical location, orientation, and footprint, and is the identical or smaller size and height as the original structure, then the structure shall not require review for cultural resources.

(ii) In the General Management Area, if the structure is replaced in accordance with the standards in subsections (4)(d) and (4)(e) above, then the structure shall not require review for cultural resources, except, if the replacement structure is within 500 feet of known cultural resources or is within 100 feet of an area that has a high probability of containing cultural resources, then the structure shall be reviewed for consistency with 350-082-0620.

(iii) In the Special Management Areas, if the structure is replaced in accordance with the standards in subsections (4)(d) and (4)(e), then the structure shall be reviewed for consistency with 350-082-0620.

(g) The replacement structure shall be subject to subsections (3)(a), (3)(b), and (3)(c) above if it would not comply with subsections (4)(b) and (4)(c) above. An original structure shall be considered discontinued if development of a replacement structure approved under these guidelines for replacement of an existing structure destroyed by disaster has not commenced within ten years of the date the structure was destroyed. Each replacement structure on a parcel is separately subject to this ten-year period. Commencement of development in this provision is determined in accordance with the guidelines for expiration of approvals.

(h) 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. An application for a replacement structure that complies with subsections (4)(b) through (4)(f) above shall be reviewed using the requirements in 350-082-0080 through 350-082-0190 that are applicable to expedited development and uses and 350-082-0220(2)(b).

- (l) The Gorge Commission shall develop and update as necessary an advisory handout to assist landowners and counties with the requirements for replacement structures destroyed by disaster.
 - (j) Alterations to a replacement structure after the replacement structure is completed shall require review and approval in the same manner and in accordance with all applicable provisions as a structure that was not previously destroyed by disaster.
- (5) Temporary structures and uses on parcels where a structure was destroyed by disaster may be permitted in accordance with the following standards:
- (a) A landowner of a parcel where a dwelling was destroyed by disaster or where a dwelling was damaged by disaster and is uninhabitable may place and occupy one recreational vehicle on the parcel on which the original dwelling was located. The recreational vehicle may not be rented, leased, or loaned to any person other than to a renter or lessee of the dwelling at the time of the disaster.
 - (b) A landowner of a parcel where one or more non-residential structures were destroyed by disaster may construct or place on the parcel one temporary structure up to 320 square feet and one story in height for storage of material salvaged from the disaster or construction materials and equipment, or for the purpose of an original structure that was destroyed structure. The color of the temporary structure shall be AMS-STD-595 Color No. 14087 or a similar dark earth tone color.
 - (c) The recreational vehicle and temporary structure shall be placed outside of resource sites and buffer zones on the subject parcel; shall use existing access; must not require a permanent foundation or grading, including ground disturbing actions for placement of water, sewage disposal, or other infrastructure; and shall comply with all applicable state and county requirements. The Executive Director shall approve the placement of a recreational vehicle and temporary structure in accordance with 350-082-0150(9).
 - (d) Every two years, the landowner shall submit documentation of their continuing need for the recreational vehicle and temporary structure. The local government shall verify the need and respond in writing.
 - (e) The recreational vehicle or temporary structure, including associated infrastructure, shall be removed within 90 days after the need for the recreational vehicle or temporary structure no longer exists or the resident of the recreational vehicle or temporary structure occupies their replacement dwelling or structure. If construction of the replacement dwelling or replacement structure has not commenced within the time allowed in the guidelines for Replacement of Existing Uses and Structures Destroyed by Disaster, the recreational vehicle or temporary structure shall be removed immediately.

- (6) Non-residential uses, except special uses in historic buildings, bed and breakfast inns on a parcel in the SMA, overnight accommodations, and commercial events, shall not be considered discontinued solely because the use is inactive for the time period to repair the original structure or rebuild the replacement residence or structure where the land use occurred prior to the disaster. Special uses in historic buildings and bed and breakfast inns on parcels in the SMA are discontinued after the historic building in which the use occurred is destroyed. An existing overnight accommodations or commercial events use may resume only in a completed replacement structure and be used as required in the existing permit and only while the existing permit remains valid.
- (7) An existing campground may allow a landowner whose primary residence was destroyed by disaster to occupy a camping space in the campground until 90 days after the landowner can occupy their replacement dwelling. If the replacement dwelling has not commenced within the time allowed in the guidelines for Replacement of Existing Uses and Structures Destroyed by Disaster, the camping space occupancy shall be ceased immediately.
- (8) Discontinuance of Existing Uses and Structures. Except as provided in subsections (4)(a), (5), and (6) above, any use or structure that is discontinued for one 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 use of the structure changes.
- (9) Discontinued Uses and Structures. 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.

Amendatory Section

350-082-0220. Development and Uses Eligible for Expedited Review

- (1) The following development and uses may be allowed, provided they comply with the resource protection guidelines contained in section (2) below.
- (a) Except in Open Space and Agriculture-Special, accessory structures between 60 and 200 square feet in area and ten 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 six 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 350-082-0650(5) if it is inside deer and elk winter range as delineated in the Gorge Commission and Forest Service natural resource data or determined by an appropriate federal or state agency.
- (e) In the GMA, woven-wire fences for agricultural use that would enclose 80 acres or less.
- (f) Decks that are uncovered, attached and accessory to existing dwellings, and 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 GMA that would not result in the potential to create additional parcels through subsequent land divisions, as determined by 350-082-0570(1), except all lot line adjustments for parcels designated Open Space, Agriculture-Special, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.
- (l) Lot line adjustments in the SMAs, subject to compliance with 350-082-0570(2).
- (m) Removal or 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 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) Except in Agriculture-Special, new underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided that no ditch for linear facilities would be more than 36 inches wide and 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, except in Agriculture-Special, 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:

- (A) 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 in 350-082-0070(73) and in accordance with 350-082-0220(1) through 350-082-0220(4);
 - (B) The replacement mobile home shall be in the same location as the mobile home to be replaced;
 - (C) The height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced; and
 - (D) 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 two feet in height and less than or equal to 100 feet in length.
 - (u) In the SMAs, 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 350-082-0540.
 - (w) Replacement of Existing Structures Destroyed by Disaster as provided 350-082-0200(4). Only the procedural guidelines in 350-082-0080 through 350-082-0190 applicable to expedited development and uses and 350-082-0220(2)(e)(B) apply to this use.
- (2) Proposed development reviewed using the expedited review process shall comply with the following resource protection guidelines:
- (x) Scenic
 - (A) In the GMA, 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 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 area in square feet than the existing building, which may be the same color as the existing building.

- (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) Any exterior lighting shall be sited, limited in intensity, hooded, and shielded 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 350-082-0520.
 - (F) Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and designed to achieve the applicable scenic standard (*e.g.*, visual subordination, not visually evident).
- (y) Cultural
- (A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey as determined by 350-082-0620(2)(a)(A).
 - (B) The GMA guidelines that protect cultural resources and human remains discovered during construction (350-082-0620(6) and (7)) shall be applied as conditions of approval for all development approved under the expedited development review process, including development in the SMAs.
- (z) Recreation. The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.
- (aa) Natural
- (A) Water Resources (Wetlands, Streams, Ponds, Lakes and Riparian Areas). The development is outside water resources and their buffer zones. 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 Rare Plants
 - (i) The development meets one of the following:
 - (VII) The development is at least 1,000 feet from known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species and deer and elk winter range) and known rare plants.

- (VIII) 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.
 - (IX) For sensitive wildlife, the development is within 1,000 feet of known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species and deer and elk winter range), but an appropriate federal or state wildlife agency determines the Priority Habitat or sensitive wildlife site is not active, the proposed development would not compromise the integrity of the Priority Habitat or wildlife area, or the proposed development would not occur during the time of the year when wildlife species are sensitive to disturbance.
 - (X) For rare plants, the development is within 1,000 feet of known rare plants, but the Oregon Biodiversity Information Center or Washington Natural Heritage Program 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 rare plants.
- (ii) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife or rare plants in 350-082-0650(1)(d) and (2) and 350-082-0660(1)(d) and (2).
- (bb) Treaty rights protection guidelines:
 - (A) Proposed development 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 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 subsection (B) above, 350-082-0130 shall not apply to proposed development reviewed under the expedited review process.