November 10, 2026

TO: Columbia River Gorge Commission

FROM: Joanna Kaiserman, Senior Planner, Columbia River Gorge Commission

SUBJECT: **Action Item*:** Review Disaster Recovery Amendments to Wasco County NSA Ordinance for Consistency with the Management Plan

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Action Requested

Hold a public hearing on Wasco County's disaster recovery ordinance amendments (Wasco County Ordinance No. 26-002) and vote on whether the amendments are consistent with the Management Plan. Staff recommends the amendments are consistent with the Management Plan.

Background

Sections 7(b) and 8(h) of the National Scenic Area Act (16 U.S.C. §§ 544e(b) and 544f(h)) require the Gorge Commission to review the counties' National Scenic Area ordinances and ordinance amendments for consistency with the Management Plan.

On January 13, 2026, the Gorge Commission adopted amendments to the Management Plan for the Columbia River Gorge National Scenic Area regarding post-disaster recovery. The U.S. Secretary of Agriculture concurred with those updates on February 24, 2026, and the Management Plan Amendment was transmitted to the National Scenic Area counties, including Wasco County, for adoption into their land use ordinances. The Commission voted to allow the counties to implementation the Plan Amendment immediately before adopting their amended land use ordinances. This staff report presents the proposed amendments to the Wasco County National Scenic Area ordinance.

Amendments to the Wasco NSA Ordinance

The proposed amendments to the Wasco County NSA ordinance has two principal parts. First, the proposed amendment provides a path for a landowner whose home and other

structures were destroyed by disaster to use the expedited review process for permitting a replacement home and other structures. Second, the amendments allow a landowner to place a recreational vehicle and a temporary structure for storage for temporary use. Below is a summary of the updates made to the Wasco County NSA Ordinance to align with the amendments made to the Management Plan. Appendix A is the text of the proposed Wasco County NSA ordinance amendments referenced below.

A. In Chapter 2, Development Approval Procedures, there are updated procedures to accommodate new types of uses for post-disaster development.
   SECTION 2.050 Wasco County Application Authority, page 2-2.
   SECTION 2.110 Administrative Action Procedure of the Director, page 2-10.
   SECTION 2.120 The Decision of the Director, page 2-11.

B. In Chapter 3, Basic Provisions, there are updates to post-disaster development uses allowed under Expedited Review.
   SECTION 3.110 Expedited Review, page 3-10.

C. In Chapter 13, Nonconforming Uses, Buildings and Lots & Consolidation of Undeveloped Subdivisions and Legal Parcels, the post-disaster legal nonconforming development and uses allowed were updated.
   SECTION 13.070 Restoration or Replacement of Legally Created Nonconforming Structure, page 13-3, 13-4, 13-5, 13-6, 13-7, 13-8.

D. In Chapter 16, Emergency Disaster Response Actions Draft, provisions for the allowance of post-disaster temporary dwellings and structures were added.
   SECTION 16.070 Post-Disaster Temporary Dwellings and Structures, page 16-12, 16-13.

Wasco County Adoption of Updates to their Ordinance, Transmittal to CRGC

Wasco County planning department staff proposed amendments to their NSA ordinance in response to amendments made to the Management Plan concerning replacement of structures and uses destroyed by disaster and related amendments. The planning department staff hosted public open houses on September 30 and November 6, 2025, to inform the public about the amendments and invited public comment.

On May 12, 2026, the Wasco County Planning Commission held a public hearing to review the proposed amendments and provided an opportunity for public comment on the updates. At that meeting, the Planning Commission voted 5 to 0 to recommend approval to the Wasco County Board of Commissioners.

On June 17, 2026, the Wasco County Board of Commissioners held the first of two public hearings on the proposed amendments. The Board of County Commissioners reviewed

recommendations by the Planning Commission, the staff's presentation, and received public comment. The Board of County Commissioners tentatively approved the amendments. On July 1, 2026, the Wasco County Board of Commissioners met to conduct the second public hearing where they voted 0 to 2 to approve the amendments and recommend submittal to the Gorge Commission.

Following the Wasco County Board of Commissioners' vote to unanimously adopt the amendments (Ordinance 26-002), county staff then prepared the ordinance for transmittal to the Gorge Commission for concurrence, which the Commission received on September 30, 2026.

Next Steps / Recommendation

Commission staff reviewed the ordinance for consistency with the Management Plan and recommends that the Gorge Commission approve the amendments to the Wasco County NSA ordinance.

> OPTION 1: *I move to find Wasco County's ordinance amendments consistent with the GMA provisions of the Management Plan and tentatively find the ordinance consistent with the SMA provisions of the Management Plan*.

If you do not believe that Wasco County's updates to their land use ordinance are consistent with the Management Plan, you should state the specific aspects of the ordinance that you believe are not consistent.

> OPTION 2: *I move to find Wasco County's ordinance amendments are not consistent with the Management Plan, because . . .*

If you do not determine that the ordinance is consistent with the Management Plan, Wasco County will revise their ordinance.

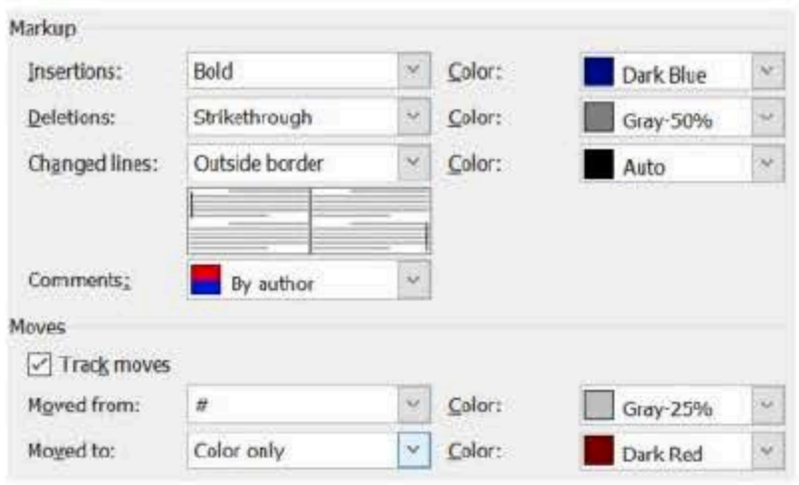
If the Commission finds the ordinance consistent with the Management Plan (a final finding of consistency with the general management area provisions and a *tentative* finding of consistency with the special management areas provisions), staff will prepare an order for the Chair to sign. Staff will then transmit the order and ordinance to the Secretary of Agriculture for concurrence with the special management area provisions. The Secretary will have 90 days from the day the ordinance is transmitted to concur.

The Wasco County ordinance amendments for the general management area revisions may go into effect after the Commission determines they are consistent with the Management Plan and the amendments for the special management area revisions may go into effect after the Secretary's concurrence.

Attachment A:

2026 Amendments to the Wasco County National Scenic Area Land Use and Development Ordinance (NSA LUDO)

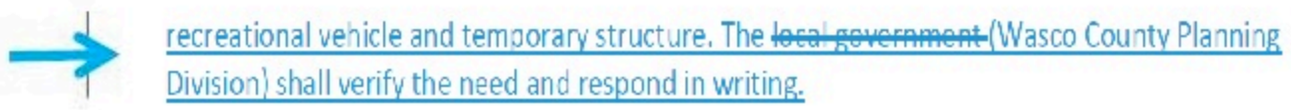
Wasco County Planning Land Use and Development Ordinance Update Draft Cover Sheet



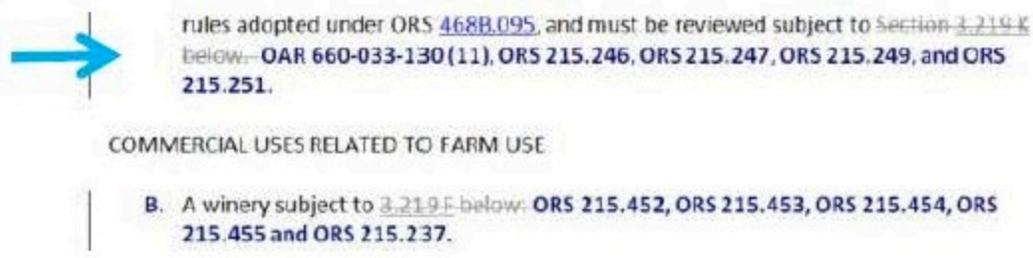
The drafts are created using track changes in Microsoft Word.

The key to the left is a reference for how revisions are marked up in the draft.

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recreational vehicle and temporary structure. The ~~local government~~ (Wasco County Planning Division) shall verify the need and respond in writing.

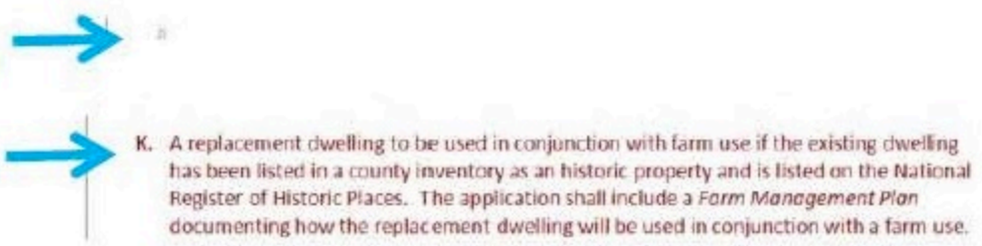
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rules adopted under ORS 468B.095, and must be reviewed subject to ~~Section 3.219 K below.~~ **OAR 660-033-130(11), ORS 215.246, ORS 215.247, ORS 215.249, and ORS 215.251.**

COMMERCIAL USES RELATED TO FARM USE

B. A winery subject to ~~3.219 F below~~ **ORS 215.452, ORS 215.453, ORS 215.454, ORS 215.455 and ORS 215.237.**

The # shows where text has been moved from and the red text shows the new proposed location for that moved text


K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as an historic property and is listed on the National Register of Historic Places. The application shall include a *Farm Management Plan* documenting how the replacement dwelling will be used in conjunction with a farm use.

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CHAPTER 2 - DEVELOPMENT APPROVAL PROCEDURES

SECTION 2.010 Purpose

The purpose of this Chapter is to establish procedures for approval of development required by this Ordinance, appeals from aggrieved persons and parties, and review of any decision by a higher authority.

SECTION 2.020 Review Process

An application for Type II, III, or IV approval required by Wasco County shall be processed by Administrative Action, quasi-judicial Public Hearing or, Legislative Public Hearing pursuant to applicable sections of this Ordinance. Quasi-judicial Public Hearings shall be held on all applications for a permit or approval required by these regulations, provided that hearings shall not be held in those matters the Director has authority to act upon, unless an appeal be taken.

SECTION 2.030 Applying New Less-Stringent Regulations to Development Approved Under Prior National Scenic Area Regulations (GMA & SMA)

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(s) shall apply for the same development that was reviewed in the original decision.

B. The development shall remain in its current location.

C. The application shall be reviewed by Wasco County and shall be governed by all applicable application and review procedures indicated in this Chapter.

D. The entire development shall be reviewed to ensure that it would fully comply with all the current criteria in Chapter 14 (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources) as well as any other applicable review criteria.

E. The new decision shall supersede 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 criteria.

SECTION 2.040 Coordination of Development Approval

A. The Director shall be responsible for the coordination of a development application and decision-making procedures and shall approve developments when proper application is made and the proposed development is in compliance with the provisions of this Ordinance, the Wasco County Comprehensive Plan, and the Management Plan for the Columbia River Gorge National Scenic Area.

B. The coordination of development application shall include the opportunity for the applicant to apply for all permits necessary for a development project at one time. The consolidated procedure shall be subject to the time limitations set out in this chapter.

C. After an application has been submitted, no building permit application for the proposed use shall be signed until final action has been taken and all required conditions have been met. Following final action on the application, the issuance of zoning approval on a building permit application shall be in conformance with the zoning regulations of this Ordinance, and any conditions of development approval.

SECTION 2.050 Wasco County Application Authority

The Following includes only the Wasco County Application Authority. All quasi – judicial appeals and legislative actions decided upon by the Columbia River Gorge Commission shall be governed by the Management Plan for the Columbia River Gorge National Scenic Area.

A. The following applications for Type I (Ministerial) Administrative Actions and Type II Administrative Actions shall be reviewed by t~~T~~he Director or designee ~~shall have the authority to review the following applications for Type II Administrative Actions~~, and shall follow the procedure provided by this Ordinance to accomplish such review.

Type I (Ministerial) Actions

1. Chapter 16 – Temporary Dwelling (RV) and/or Temporary Accessory Structure Permits Post-Disaster

Type II Actions

1. Basic Provisions (Chapter 3)
2. Uses permitted subject to Expedited Review (Chapter 3).
3. Uses permitted Subject to Additional or Referenced Standards (Chapter 3)
4. Conditional Use Reviews (Chapter 5)
5. Administrative Variance (Chapter 6)
6. Temporary Use Permits (Chapter 8)
7. Non-conforming Use Reviews (Chapter 13)
8. National Scenic Area Reviews (Chapter 14)
9. Emergency/Disaster Response (Chapter 16)
10. Partition Approvals, except as provided for in 2.050(B), re-plats and property line adjustments. (Chapter 21)

11. Permitted uses which require the interpretation or the exercise of policy or legaljudgment.

B. The following applications for Type III and Type IV Quasi-Judicial and Legislative Actions shall be heard by the Planning Commission or other authorized review authority, pursuant to Sections 2.100, 2.180, 2.190, 2.200, 2.210, and 2.220 of this Ordinance:

Type III Actions

1. Appeals of Decision of Director made pursuant to 2.050(A) and any ministerial action of the Director.

2. Matters which the Director elects not to review, pursuant to 2.050(A).

3. Revocation of Conditional Use Permits (Chapter 5)

4. Variances (Chapter 6)

5. Recreational Vehicle Parks (Chapter 17)

6. Preliminary Partitions involving private or public road approval (Chapter 21)

7. Subdivisions (Chapter 21)

8. Private Road Approvals (Chapter 21)

Type IV Actions

9. Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Chapter 9)

10. Recommendation to the County Governing Body on Zone Change and/or Ordinance Amendments (Chapter 9)

11. Recommendation to the County Governing Body on street dedications (Chapter 21)

C. The following application for Type III and Type IV Quasi Judicial and Legislative Actions shall be heard by the County Governing Body, pursuant to Sections 2.100, 2.180, 2.190, 2.200, 2.210, and 2.220 of this Ordinance:

Type III Actions

1. Appeals of a Planning Commission or other authorized review authority: Decision made pursuant to 2.050(B)(1) – (9) .

Type IV Actions

2. Plan Amendments (Chapter 9)

3. Zone Change and Ordinance Amendments (Chapter 9)

4. Street Dedications (Chapter 21)

SECTION 2.060 Who May Apply

A. Development request may be initiated by one or more of the following:

1. All owner(s) of the property which is the subject of the application; or

2. The purchaser(s) of such property who submits a duly executed written contract, or copy thereof, which has been recorded with the Wasco County Clerk; or

3. The purchaser(s) of such property who submits a duly executed earnest money agreement stating the land use action proposal; or

4. A lessee in possession of such property who submits written consent of the owner(s) to make such application; or

5. Resolution of the County Governing Body; or

6. County Road Department, (when dealing with land involving public works projects).

Any of the above may be represented by an agent who submits written authorization by his principal to make such application.

SECTION 2.070 Pre-Application Conference

An applicant may request a pre-application conference prior to submitting a request for development approval. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this Ordinance, provide for an exchange of information regarding applicable elements of the Comprehensive Plan, the Management Plan for the Columbia River Gorge National Scenic Area, and development requirements, arrange such technical and design assistance as will aid the applicant, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

SECTION 2.080 Completeness

A. Complete Application Required:
Any proposed use, development or structure, including expedited review uses, shall be reviewed according to the standards in effect on the date an applicant submitted a complete land use application. A complete application is one the Director determines contains:

1. A complete application form, including all applicable information and review criteria listed on the application form, the Complete Application Submittal requirements of Section 14.020, and any additional information indicated throughout this ordinance; and

2. The required fee, pursuant to Section 2.090.

3. Completeness Time Frame

a. If an application for a permit is incomplete, the applicant shall be notified in writing of exactly what information is missing within 30 days of receipt of the application and be allowed to submit the missing information. The application shall be deemed complete upon receipt of all the missing information.

b. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection a. of this section and has not submitted information.

B. Quasi-Judicial Time Limitations

After deeming a quasi-judicial application listed in Section 2.050 complete, the Director shall act on or cause a hearing to be held on the application within the time requirements of ORS 215.427 unless such time limitation is extended with the consent of the applicant.

SECTION 2.090 Filing Fees

A. Any application filed with the Planning Division shall be accompanied by the appropriate filing fee to reimburse the County for processing costs attendant upon the application.

B. Fees shall not exceed the actual or average cost of providing the service.

C. Any and all fees shall be established by County Governing Body Order, be separate from this Ordinance, and may be revised whenever necessary.

D. A filing fee may be waived by the County Governing Body following the procedures indicated in the current fee schedule.

E. All fees received pursuant to this Section shall be deposited in the County General Fund.

F. Fees are not transferable or refundable.

SECTION 2.100 Notice Requirements

Citizen and Agency Involvement. The County shall provide opportunities for public and agency input in the planning process. To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to interested agencies and departments such as County departments, sheriff and fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. Affected jurisdictions and agencies could include the Gorge Commission, Forest Service, Department of Environmental Quality, the Oregon Department of Transportation, Wasco County Transportation Network, and other applicable local, state or federal agencies & Treaty Tribes.

If the subject property is being considered for a plan amendment or zone change, notice of receipt of the application shall be provided to the Oregon Department of Transportation.

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.

A. Type II - Administrative Action

1. Notice Recipients - Notice for an Administrative Action, pursuant to 2.050(A) shall be mailed at least fifteen (15) days prior to a decision to the following:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

b. All owners of property and agencies as stipulated by the notification matrix (Table 2-1);

c. Any affected governmental agency or public district within whose boundary the subject property lies;

d. The city within whose recognized Urban Area Boundary the subject property lies or whose facilities may be impacted;

e. Other persons as may be clearly and necessarily affected by the result of the development request and as required due to the presence of Scenic, Natural or Cultural Resources.

f. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Tribal governments.

g. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.

h. Owners of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty-five (35) feet tall outside the runway approach surface.

i. For an expedited review the notice shall be the preliminary decision pursuant to Sections 2.110 and 2.120. Written comments on the proposed development will be received within 12 days from the date a notice is sent from the four Tribal governments, the Gorge Commission, the Forest Service, all landowners within 200 feet of the subject parcel, and any other interested parties. If written comments are received from any of the above described, the comments will be included in the review and a new decision with appeal period will be issued pursuant to Sections 2.110 and 2.120. If no comments are received from these entities, the decision will be considered final unless appealed by another party pursuant to Section 2.150. 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.

2. Contents of Notice - Notice for a Type II - Administrative Action shall be filed with the Director and shall include the following information:

a. The location, title of the request and the date such notice was sent;

b. The general location of the subject property and legal description;

c. The legal owner of record and the name of applicant seeking review;

d. The present zoning of the subject property and applicable Ordinances and sections that apply to the application at issue;

e. The nature of the application;

f. The deadline for filing comments on the request.

g. That failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

h. The name of a local government representative to contact and the telephone number where additional information may be obtained;

i. That a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

j. That a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and

k. General explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

l. For expedited reviews, the notice shall also include a copy of the application which shall only be required to be sent to the Gorge Commission, Forest Service and four Tribal Governments.

3. Additional Notice Criteria

a. The County shall determine if a wildlife management plan as required in 14.600(C)(5), or rare plant protection and rehabilitation plan as required in 14.600(D)(5) is needed within seven (7) days of the close of the fifteen (15) day public comment period.

b. For proposed uses or developments where a cultural resource survey (Reconnaissance or historic) is required to be performed by the Commission in accordance with 14.500(B), the survey shall be completed by the close of the fifteen (15) day public comment period.

c. All cultural resource surveys shall be forwarded to the State Historic Preservation Office and Indian Tribes for a thirty (30) day cultural resource review period in accordance with

Section 14.500(C)(3).

d. Within seven (7) days of the close of the thirty (30) day cultural resource comment period, a determination of need for an evaluation of significance, as provided for in 14.500(D), shall be made by the County, in consultation with Tribes and State Historic Preservation Office.

An affidavit of all publication and mailing notices shall be made part of the record.

B. Type III - Quasi Judicial Public Hearing

1. Notice Recipients - At least twenty (20) days prior to the date of a quasi-judicial public hearing listed hearing under 2.050(B)(1) – (9) and ten (10) days prior to the date of a public hearing listed under 2.050(C)(1), notice shall be sent or provided to the same list indicated in (A)(1) above unless otherwise specified, in addition to the following:

a. Notice shall be given by publication in the official newspaper of Wasco County at least fifteen (15) days prior to the date of a quasi-judicial public hearing listed under 2.050(B)(1) – (9) and ten (10) days prior to the date of a hearing listed under 2.050(C)(1).

b. Notice of Review by the County Governing Body pursuant to 2.050(C)(1) shall also be posted in at least two (2) different public locations and published in the official newspaper of Wasco County at least ten (10) days prior to the date set for the hearing.

c. All property owners within 250 feet of a property for which a zone change has been initiated by a property owner or group of property owners.

2. Contents of Notice - In addition to the Contents of the Notice listed in (A)(2) above, with the exception of (f) & (g), the notice for a quasi-judicial public hearing listed under 2.060(B)(1) – (9) and (C)(1) shall also include the date, time and place of hearing and the name of the hearing body;

3. Additional Notice Criteria - The provisions of (A)(3) above shall be applicable to quasi-judicial public hearings listed under 2.050(B)(1) – (9) and 2.050(C)(1).

C. Type IV - Legislative Hearing Notice

1. Planning Commission or other authorized review authority. Notice Requirements – Notice shall be sent at least fifteen (15) days prior to the date of a legislative hearing.

a. Recipients to be determined by Wasco County Governing Body in addition to the following agencies:

(1) The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Tribal governments

(2) All applicable local, state, and federal natural resource agencies

(3) State Historic Preservation Office

(4) Historic Columbia River Highway Advisory Committee

(5) Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.

(6) Owners of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty-five (35) feet tall outside the runway approach surface.

b. Notice shall be published in accordance with (B)(1)(a) above.

2. County Governing Body Notice Requirements – Notice shall be sent at least ten (10) days prior to the date of a legislative hearing.

a. In addition to agencies listed in (C)(1)(a) above, excluding recipients determined by Wasco County, recipients shall include parties of record who:

(1) have submitted written testimony,

(2) provided testimony at the Planning Commission, or other authorized review authority, hearing,

(3) or those who have requested in writing to receive notice

b. Notice shall be published in accordance with (B)(1)(a) and (b) above.

D. Transportation Related Notice

3. Notice of a legislative hearing will be sent to public agencies and local jurisdictions (including those providing transportation facilities and services) that may be impacted by the proposed action. Affected agencies and jurisdictions could include the Department of Environmental Quality, the Oregon Department of Aviation, cities within Wasco County, and neighboring jurisdictions.

4. Notice of a legislative or quasi-judicial hearing for any proposal that includes a new

transportation facility or improvement, and where these facilities or improvements include or may impact a collector or arterial street, will be sent to the Oregon Department of Transportation and any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and public transit providers. Information that should be conveyed with the notice includes the following:

a. Project location

b. Proposed land use action

c. Location of project access point(s)

SECTION 2.110 Administrative Action Procedure of the Director

A. Type I (Ministerial) Actions as allowed under Chapter 16 – Temporary Dwelling (RV) and/or Temporary Accessory Structure Permits Post-Disaster. Within the time period specified in Section 2.080, and without public notice or public hearing, the Director or designee shall:

1. Review the application for compliance with the clear and objective criteria provided within Chapter 16 Section 16.070. Post-Disaster Temporary Dwellings and Structures. Temporary Dwelling (RV) and/or Temporary Accessory Structure Permits Post-Disaster; and

2. Make a decision to approve or deny the request.

~~A.~~**B.** Type II Actions. Within the time period specified in Section 2.080, the Director shall:

1. Publish or otherwise file notice pursuant to Section 2.100;

2. Prepare findings of fact and conclusions of law; and

3. Prepare a decision to approve or deny the request. Approvals may include conditions considered necessary to assure conformance with the Comprehensive Plan and the Management Plan for the Columbia River Gorge National Scenic Area pursuant to 2.120(C).

~~B.~~**C.** If the application does not meet the criteria or if written objections are received, or if the applicant or the Director so desires for any reason, the Director may schedule any application made under 2.050(A) for public hearing before the Planning Commission or other authorized review authority, pursuant to 2.050(B)(2), and the Commission shall decide the matter, as if the matter were listed under 2.050(B).

SECTION 2.120 The Decision of the Director

A. In making a decision, the Director shall consider the following:

1. The burden of proof is placed upon the petitioner seeking an action pursuant to the provisions of this Chapter. Unless otherwise provided for in this Chapter, such burden shall be to prove:

a. The proposed action fully complies with the applicable map elements of the relevant Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area and also the goals and policies of the applicable plans.

b. The proposed action is in accordance with the applicable criteria of this Ordinance.

2. Written comments from parties or other persons.

B. Notwithstanding Type I (Ministerial) Actions, all actions, the Director shall enter findings and conclusions to justify their decision.

C. The following limitations shall be applicable to conditional approvals:

1. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time.

2. Such conditions shall be reasonably conceived to fulfill public needs emanating from the proposed land use as set forth in the application in the following respects:

a. Protection of the public from the potentially deleterious effects of the proposed use; or

b. Fulfillment of the need for public service demands created by the proposed use.

c. Promote the public health, safety and welfare and provide protection and enhancement of the scenic, natural, cultural and recreation resources in the Columbia River Gorge National Scenic Area.

3. The conditional approval may require the owner of the property to sign a contract with the County for enforcement of the conditions. Such contract shall be executed within thirty (30) days after conditional approval is granted, provided, however, that the Director may grant time extensions due to practical difficulty. The Director shall have the authority to execute such contracts on behalf of the County. If a contract is required by a conditional approval, no zoning approval on a building permit application shall be issued for the use covered by the application until the executed contract is recorded on the real property records of Wasco County and filed in the County Journal. Such contract shall not restrict the power of subsequent administrative action, with or without conditions. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by Wasco County by appropriate action in law or suit in equity for the benefit of public health, safety and welfare.

4. Failure to fulfill any conditions of approval within the time limitations imposed may be grounds for initiation of Administrative Action or revocation of approval by the Director.

5. A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Governing Body or a cash deposit from the property owner(s) or contract purchaser(s) in such amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond or deposit shall be posted at the same time the contract containing the conditions of approval is filed with the Wasco County Clerk.

D. If an application is denied by the Director, and no higher authority reverses such denial upon

appeal, no new application for the same or substantially similar action shall be filed for at least twelve (12) months from the date of the final order of the action denying the application.

SECTION 2.130 Notice of a Decision

A. Notice of a decision by pursuant to 2.050(A), (B)(1) – (9) and (C)(1) shall be filed in the records of the Director and also mailed to the following:

1. The applicant(s) and all owners or contract purchasers of record of the property which is the subject of the application.

2. All owners of property as stipulated by the notification matrix (Table 2-1). For an expedited review, the required notification area shall be limited to landowners within 200 feet of the perimeter of the subject parcel.

3. Any affected governmental agency or public district within whose boundary the subject property lies.

4. The city within whose recognized Urban Area Boundary the subject property lies.

5. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Tribal governments.

6. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.

B. Notice of a decision shall contain:

1. Identification of the application;

2. Other information pertinent to the application, if any;

3. The date of the filing of the decision;

4. Notice that any party may appeal an expedited review decision within twelve (12) days and all other review decisions within fifteen (15) days from the date such notice was sent by filing a timely statement with the Director.

C. The decision of the Director pursuant to 2.050(A) shall be final unless an appeal from an aggrieved person is received by the Director within twelve (12) days for an expedited review decision and fifteen (15) days for all other review decisions after the filing of a decision on an Administrative Action or unless the Commission or County Governing Body on its own motion, orders review for an expedited review decision within twelve (12) days and all other review decisions within fifteen (15) days after the filing of the proposed decision.

D. Notice of a legislative decision shall be filed in the records of the Director and also mailed to the following:

1. Any affected governmental agency or public district within whose boundary the subject property lies;

2. The city within whose recognized Urban Area Boundary the subject property lies;

3. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Tribal governments.

4. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.

5. Parties of record who:

(a) have submitted written testimony; or

(b) provided testimony at either the Planning Commission, other authorized review authority, or County Governing Body hearing; or those who have requested in writing to receive the decision.

E. Notice of a decision shall contain:

1. Identification of the application;

2. Other information pertinent to the application, if any;

4. The date of the filing of the decision by the Wasco County Governing Body;

5. Notice that any party may appeal a decision within thirty (30) days from the date such notice was sent by filing a timely statement with the Columbia River Gorge Commission.
(a)

SECTION 2.140 Recordation of Conditions of Approval

All conditions attached to approval of uses shall be recorded in the County deeds and records to ensure notice of the conditions to successors in interest.

SECTION 2.150 Appeal from Decision of the Director

A. Any action taken by the Director or the Director's designee in the interpretation, administration or enforcement of this ordinance shall be subject to review by the Planning Commission or other authorized review authority.

B. Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the appeal shall not be heard and the contested decision shall become final. For expedited reviews, party status shall be given to any person.

C. The Approving Authority may review the action of the Director upon receipt of a Notice of Appeal as prescribed in this section. For the purpose of this section, an appeal shall be filed with the Director no later than twelve (12) days for an expedited review and fifteen (15) days for all other reviews following the date of the decision or action of the Director. The decision of the Director may also be reviewed by the County Governing Body upon its own motion passed within twelve (12) days for an expedited review and (15) fifteen days for all other reviews following the date of the written decision sought to be reviewed if no appeal is filed. County Governing Body review shall be conducted pursuant to Section 2.170.

D. Every Notice of Appeal shall contain:

1. A reference to the application sought to be appealed.

2. A statement as to how the petitioner qualifies as a party.

3. The specific grounds relied upon in the petition request for review.

4. The date of the final decision of the action.

5. The required fee, unless waived pursuant to Section 2.090.

F. Members of the Approving Authority shall neither:

1. Communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; nor

2. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.

G. Appeal of an administrative decision to the Planning Commission or other authorized review authority shall be "de novo"; i.e., conducted as a new hearing before the public.

H. The review shall be accomplished in accordance with the Rules of Procedure adopted by the County Governing Body. The Approving Authority may continue its hearing from time to time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Approving Authority no additional notice need be given of continued hearings if the matter be continued to a certain date.

I. All evidence offered and not objected to shall be received unless excluded by the Approving Authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to ORS 183.450 except as otherwise provided for herein.

J. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area pursuant to 2.120(C).

1. For all cases the Approving Authority shall make a decision based on findings and conclusions from the record before it as justification for its action.

2. The Director shall send a copy of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director.

SECTION 2.160 Review of a Decision of the Planning Commission or Other Authorized Review Authority

Fifteen (15) days from the date of a final decision of the Planning Commission or other authorized review authority, the decision shall become effective unless review is sought pursuant to this Section.

A. Review of the decision of the Planning Commission or other authorized review authority:

1. Shall be made by the County Governing Body, pursuant to Section 2.170, upon any party filing a Notice of Review with the Director within fifteen (15) days from the date of the final decision sought to be reviewed; or

2. May be made by the County Governing Body, pursuant to Section 2.170, on its own motion passed within fifteen (15) days from the date of the final decision sought to be reviewed.

K. Notice of the time and place of the review together with any Notice of Review filed shall meet the requirements of Section 2.100, Notice Requirements.

L. Every Notice of Review shall contain:

1. A reference to the decision sought to be reviewed;

2. A statement as to how the petitioner qualifies as a party;

3. The specific grounds relied upon in the petition request for review; and

4. The date of the decision sought to be reviewed.

M. A Notice of Review shall be accompanied by a fee as set forth on the fee schedule established by the County Governing Body.

1. If the Court does not desire a transcript, the applicant or any party may request a transcript. Any such transcript request shall be paid for by the person requesting it. The estimated cost of the transcript shall be specified by the Director. Within five (5) days of such estimate, the person filing the Notice of Review shall deposit the estimated cost with the Director. Any deposit excess shall be returned to the depositing person. Failure to comply with this subsection shall be a jurisdictional defect.

2. If a transcript is desired by the Court, the costs shall be borne by Wasco County.

SECTION 2.170 Review by the County Governing Body

A. The review of the decision of the Planning Commission by the County Governing Body shall be conducted as a "de novo" hearing, including but not limited to the record established at the Planning Commission or other authorized review authority level.

B. Review by the County Governing Body upon appeal by a party shall be limited to the grounds relied upon in the petition request for review.

C. The County Governing Body may remand the matter to the Planning Commission or other authorized review authority if it is satisfied that testimony or other evidence could not have been presented at the hearing before the Planning Commission or other authorized review authority[18]. In deciding such remand, the County Governing Body shall consider and adopt findings and conclusions respecting:

1. Prejudice to parties

2. Convenience or availability of evidence at the time of the initial hearing;

3. Surprise to opposing parties;

4. Date notice was sent to other parties as to an attempt to admit; and

5. The competency, relevancy and materiality of the proposed testimony or other evidence.

E. Only those members of the County Governing Body reviewing the entire record may act on the matter reviewed. The agreement of at least two (2) members is necessary to amend, reverse, or remand the action of the Planning Commission or other authorized review authority. Upon failure of at least two (2) members to agree, the decision of the Approving Authority below shall stand.

F. The Notice of a Decision shall meet the requirements of Section 2.130.

SECTION 2.180 Hearing Procedure

A. In the conduct of a public hearing, the Approving Authority shall have the authority, pursuant to Rules of Procedure approved by the County Governing Body, to:

1. Determine who qualifies as a party.

2. Regulate the course, sequence and decorum of the hearing.

3. Dispose of procedural requirements or similar matters.

4. Rule on offers of proof and relevancy of evidence and testimony.

5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony.

6. Take such other action appropriate for conduct commensurate with the nature of the hearing.

7. Grant, deny, or in appropriate cases, attach conditions pursuant to 2.120(C) of this Chapter to the matter being heard.

B. Order of Procedure: Unless otherwise specified, the Approving Authority, in the conduct of a hearing, shall:

1. Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing.

2. Recognize parties.

3. Ask for disclosure of any potential conflicts of interest by those on the decision-making

body.

4. Ask parties to the hearing if there is a challenge to the ability of any member to make an unbiased decision on the case.

5. Request the Director or their designee to present a summary of staff findings and recommendation, if any, and explain any graphic or pictorial displays which are part of the staff report.

6. Testimony

a. De Novo Hearings:

(1) Allow the applicant to be heard first, on their own behalf or by representative.

(2) Allow parties or witnesses in favor of the applicant's proposal to be heard.

(3) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.

(4) Upon failure of any party to appear, the Approving Authority may take into consideration written material submitted by such party.

(5) Allow only the applicant to offer rebuttal testimony. The scope and extent of rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.

b. Quasi-Judicial Appeal to County Governing Body:

(1) Allow the appellant to be heard first, on their own behalf or by representative.

(2) Allow parties or witnesses in favor of the appellant to be heard.

(3) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.

(4) Upon failure of any party to appear, the Approving Authority may take into consideration written material submitted by such party.

(5) Allow only the appellant to offer rebuttal testimony. The scope and extent of rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.

7. Close the hearing to public testimony. Questions may be asked at this time by the Approving Authority. Questions by the Director or his designee may be allowed by the Approving Authority upon request.

8. At the conclusion of the hearing, the Approving Authority shall either make a decision and state findings which may incorporate findings proposed by any party, or the Director, or may take the matter under advisement. The Approving Authority may request proposed findings and conclusions from any party to the hearing.

9. The Approving Authority, before finally adopting findings and conclusions, may circulate the same in proposed form to the parties for written comment. All actions taken by the Approving Authority pursuant to adopting findings and conclusions shall be made a part of the record. The decision, findings and conclusions which support the decision of the Approving Authority shall be final when signed by the Approving Authority. For the purpose of signing the decision, findings and conclusions, the Approving Authority may be:

a. Planning Commission or Other Authorized Review Authority Decision: The Chair of the Planning Commission, Hearings Officer, or the Director of Planning.

b. County Governing Body Decision: All members of the County Governing Body present and deciding upon the application.

10. Within thirty (30) days of the date of public hearing the Approving Authority shall grant, deny or, in appropriate cases, pursuant to 2.120(C), attach such conditions as may be necessary to carry out the Comprehensive Plan in approving the proposal being heard. The Director may extend the thirty (30) day deadline for rendering a decision upon consent of the applicant. The Director shall notify parties of the decision by mail.

11. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority, and may reasonably grant approval subject to the conditions necessary to carry out the Comprehensive Plan pursuant to 2.120(C) of this Ordinance.

a. For all cases the Approving Authority shall make a decision based on the record before it as justification for its decision.

b. The Director shall send a notice of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director pursuant to Section 2.130, Notice of a Decision.

SECTION 2.190 Establishment of Party Status

A. In order to have standing under this Chapter, a person shall be recognized as a party by the Approving Authority.

Party status, when recognized by the Approving Authority, establishes the right of the person to be heard, either orally or in writing and to pursue a review or appeal under this Chapter.

B. A request for establishment of party status may be made at least ten (10) days before the date set for a quasi-judicial public hearing by any person who files a written statement regarding the application being considered.

C. Seven (7) or more days prior to the date set for a public hearing, the Director shall mail the applicant any statements that have been filed and a copy of the staff report.

D. With respect to applications under 2.050(B), all persons may submit written comments or provide oral testimony prior to the close of a Planning Commission or other authorized review authority de-novo hearing. These persons shall be automatically given party status.

E. With respect to applications under 2.050(C)(1), the Approving Authority may authorize a person to have party status, at any time prior to the close of a hearing, if that person is not otherwise a party, as defined by Section 1.200 of this Ordinance.

F. A request for establishment of party status for an Administrative decision pursuant to 2.050(A) of this Chapter shall be made by filing a written statement within a ten (10) day notification period. Such statement shall include:

1. The name, address and telephone number of the person filing the statement;

2. How the person qualifies as a party; as defined in Section 1.200 of this Ordinance; and

3. Comments which the party wishes to make with respect to the application under consideration.

G. Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the appeal shall not be heard and the contested decision shall become final.

SECTION 2.200 Official Notice

A. The Approving Authority may take official notice of the following:

1. All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.

2. The Comprehensive Plan and other officially adopted plans, ordinances, rules and regulations of Wasco County and comprehensive plans and implementing regulations of cities within Wasco County.

B. Matters officially noticed need not be established by evidence and may be considered by the Approving Authority in the determination of the application.

SECTION 2.210 General Conduct of All Hearings; Administrative, Quasi-Judicial or Legislative.

The following rules apply to the general conduct of the County hearings:

A. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

B. No person shall testify without first receiving recognition from the Approving Authority and stating full name and address.

C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.

Formal rules of evidence as used in courts of law shall not apply. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.

D. Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing shall not be permitted.

E. The person in charge of the decision making body shall have the authority, at such person's discretion, to inform, reprimand, or remove any person or persons for violations of the above rules of conduct. Violations of the above rules of conduct shall further be grounds for the immediate suspension of the hearing.

SECTION 2.220 Approval, Rejection, Modification

A. Any application may be approved, rejected and modified, or approved subject toconditions.

B. Any change to an application approved pursuant to the Wasco County NSA LUDO which represents a major deviation from the approved development action shall be processed as a new action.

C. Any change to an application approved pursuant to the Wasco County LUDO which represents an immaterial deviation from the approved development action shall be reviewed by the Wasco County Planning Division for consistency with the applicable criteria in this ordinance and the findings and conclusions of the original approval. If the Planning Director approves a minor change, a new notice of decision indicating the change shall be given to all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four Tribal governments, the Columbia River Gorge Commission, and anyone who submitted comments during the comment period on the original land use application. The change itself is subject to appeal under the same time frames applicable to the original decision.

D. Any change to an application approved pursuant to the Wasco County NSA LUDO that is located entirely within the approved development footprint and reduces any exterior dimension without increasing any other dimension and without altering any approved exterior structural colors and materials may be approved by the Director upon submittal of a formal request, a new site plan, and any other information required for review of the requested change. This change will not require an additional pre-notice, findings, notice of decision or appealperiod.

SECTION 2.230 Appeals to the Gorge Commission

A. Congress authorized people to appeal a final decision by the County that relates to the implementation of the National Scenic Area Act to the Gorge Commission:

> *"Any person or entity adversely affected by a final action or order of a county that relates to the implementation of this Act may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated or set aside."*

B. The Gorge Commission shall consider an appeal at a hearing held for that purpose, only after notice to the petitioner, the County and others eligible to become parties to the proceeding.The Gorge Commission's hearing shall be based upon the record before the County.

C. The Gorge Commission shall adopt rules to implement the appeals provisions in the National Scenic Area Act after consultation with the Secretary, the counties, and the Indian tribes and only after public hearing.

SECTION 2.240 Expiration of Approvals

A. Notice Not Required: Expiration of any land use approval issued pursuant to this ordinance shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.

B. Land Use Approvals without Structures: Any land use approval issued pursuant to this Ordinance 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. The expiration date for the validity of a land use approval is from the date of the expiration of the appeal period and not the date the decision was issued.

C. Land Use Approvals with Structures: Any land use approval issued pursuant to this Ordinance for a use or development that includes a structure shall expire as follows:

1. When construction has not commenced within two years of the date the land use approval was granted, or

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

The expiration date for the validity of a land use approval is from the date of the expiration of the appeal period and not the date the decision was issued.

D. Commencement of Construction: As used in C(1) 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.

E. Completion of Structure: As used in C(2) 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.

F. Vested Rights

Pursuant to Part II Chapter 7 Guideline 7 of Standards for Applications, Expiration of Approvals, Vested Rights of the Management Plan for the Columbia River Gorge National Scenic Area, the laws of the state of Oregon concerning vested rights are superseded by the provisions of the Management Plan as authorized in the National Scenic Area Act. A person has a vested right for as long as the land use approval does not expire.

SECTION 2.250 Extension of Validity of Land Use Approvals

A request for extension of the time frames in 2.240(B), C(1) or C(2) above, shall be submitted in writing before the applicable expiration date. The expiration date for the validity of a land use approval is from the date of the expiration of the appeal period and not the date the decision was issued.

A. The Director may grant one 12-month extension to the validity of a land use approval if they determine that events beyond the control of the applicant prevented commencement of the use or development (applicable to 2.240(B) above) or commencement of construction (applicable to 2.240(C)(1) above) within the original two-year time frame.

B. The Director may also grant one 12-month extension if they determine that events beyond the control of the applicant prevented completion of the structure (applicable to 2.240C(2) 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.

SECTION 2.300 Planning Commission Rules

A. Membership

The Commission shall consist of seven (7) County residents appointed by the County Governing Body to serve as members for a term of four (4) years or for the unexpired portion of the term of a member whom the appointee succeeds, provided that members of the Commission shall serve without compensation other than reimbursement for duly authorized expenses, and members of the Commission shall be residents of the various geographic areas of the County. No more than two (2) voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two (2) voting members shall be engaged in the same kind of business, trade or profession.

B. Disqualification

Each appointed member shall serve until his successor is appointed and qualified except that no member of the Commission shall participate in any consideration of matter in which he is directly or indirectly interested in a personal or financial sense.

C. Officers

The Commission shall:

1. At the first meeting of each calendar year elect from among their appointed members, to serve for no longer than twelve (12) months, a Chair for their body. The Chair shall preside at all meetings, shall appoint and serve ex officio upon all committees, shall compel the attendance of members and witnesses, shall administer oaths, and sign the minutes of meetings after the same be approved by the body.

2. At said meeting, select from among their appointed members, to serve no longer than twelve (12) months, as Vice-Chair for their body. The Vice-Chair shall perform the duties of Chair whenever that officer is absent, ill, disqualified or otherwise unable to act.

D. Legal Advisor

The District Attorney or their deputy shall act as legal advisor to the Commission and represent them in all litigation, provided that when he determines a conflict of interest prevents such service, the County Governing Body may authorize the Commission to retain other counsel.

E. Meetings

The Commission shall meet upon call of the Chair pursuant to such rules as they may from time to time adopt. Meetings of the Commission shall normally be held on the same day of the month established by the Commission, unless such day is a legal County holiday, in which case the commission shall decide upon the day to meet at its previous meeting. All meetings shall be public. All meetings of the Commission shall be publicized by giving notice thereof in a newspaper of general circulation pursuant to 2.100(B), Notice Requirements.

Table 2-1 NOTICE OF APPLICATION REQUIREMENTS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA								
Residential LUD – Review uses except SFDs located adjacent to Agriculture & Forest LUDs and Commercial Events, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Residential LUD – SFDs adjacent to Agriculture & Forest LUDs and Commercial Events except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Residential LUD – Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs and Commercial Events	X	X	X	X	X		X	
Residential LUD – SFDs adjacent to Agriculture & Forest LUDs and Commercial Events within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Residential LUD – Review uses within 1000' of a rare plant except SFDs and Commercial Events located adjacent to Agriculture or Forest LUDs	X	X	X	X	X			X
Residential LUD – SFDs and Commercial Events adjacent to Agriculture & forest LUDs within 1000' of rare plant	X	X	X	X		X		X
Agriculture LUD – Review uses except non-farm SFD and Commercial Events in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X			

Agriculture LUD – Review uses within 1000' of sensitive wildlife area or site except non-farm SFD and Commercial Events in Large-Scale Agriculture LUD	**X**	**X**	**X**	**X**	**X**		**X**	
Agriculture LUD – Review uses within 1000' of a rare plant except non-farm SFD and Commercial Events in Large-Scale Agriculture LUD	**X**	**X**	**X**	**X**	**X**			**X**
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	**X**	**X**	**X**	**X**		**X**		
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	**X**	**X**	**X**	**X**		**X**	**X**	
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture within 1000' of rare plant	**X**	**X**	**X**	**X**		**X**		**X**
Commercial LUD – Review uses within 1000' of a sensitive wildlife area or site	**X**	**X**	**X**	**X**		**X**	**X**	
Commercial LUD – Review uses within 1000' of a rare plant	**X**	**X**	**X**	**X**		**X**		**X**
Recreation LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	**X**	**X**	**X**	**X**		**X**		
Recreation LUD – Review uses within 1000' of a sensitive wildlife area or site	**X**	**X**	**X**	**X**		**X**	**X**	
Recreation LUD – Review uses within 1000' of a rare plant	**X**	**X**	**X**	**X**		**X**		**X**
Open Space LUD – Review uses except those within 1000' of a sensitive wildlife	**X**	**X**	**X**	**X**	**X**			

area or site, or a rare plant								
Open Space LUD – Review uses within 1000' of a sensitive wildlife area or site	**X**	**X**	**X**	**X**	**X**		**X**	
Open Space LUD – Review uses within 1000' of a rare plant	**X**	**X**	**X**	**X**	**X**			**X**
Agriculture-Special LUD – Review uses	**X**	**X**	**X**	**X**	**X**			**X**
Forest LUD – Review uses except utility facilities, railroads, home occupations, cottage industries, Commercial Events, wineries and cideries, ag. product process.& pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	**X**	**X**	**X**	**X**	**X**			
Forest LUD – Utility facilities, railroads, home occupations, wineries and cideries, ag. produce process. & pack., mineral resources, Geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non- profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' feet of a sensitive wildlife area or site, or rare plant	**X**	**X**	**X**	**X**		**X**		
Forest LUD – Review uses within 1000' feet of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries and cideries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp.	**X**	**X**	**X**	**X**	**X**		**X**	

asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, Commercial Events, non-profit learning/research facilities								
Forest LUD – Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries and cideries, ag. produce process. & pack., mineral resources, Geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non- profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	**X**	**X**	**X**	**X**	**X**			**X**
Forest LUD – Utility facilities, railroads, home occupations, wineries and cideries, ag. produce process. & pack., mineral resources, Geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non- profit camps-retreats-conf. centers, B&Bs, Commercial Events, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	**X**	**X**	**X**	**X**		**X**	**X**	
Forest LUD – Utility facilities, railroads, home occupations, wineries and cideries, ag. produce process. & pack., mineral resources, Geothermal resources, aquaculture, boarding of horses, Commercial Events, temp. asphalt/batch plants, expansion of non-profit learning/research facilities within 1000' of a rare plant	**X**	**X**	**X**	**X**		**X**		**X**
Commercial LUD – Review uses except	**X**	**X**	**X**	**X**	**X**			

those within 1000' of a sensitive area or site, or rare plant.								
SPECIAL MANAGEMENT AREAS								
Review uses – All LUDs	**X**	**X**	**X**	**X**	**X**		**X**	

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CHAPTER 3 BASIC PROVISIONS

SECTION 3.010 Introduction

In order to achieve the purposes outlined in Chapter 1 of this Ordinance and to assure that the development and use of land in the National Scenic Area portion of Wasco County conforms to the Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area, zoning classifications have been established for all unincorporated lands in the National Scenic Area portion of Wasco County. These classifications specify regulations for the use of land and property development standards, and are applied by boundaries indicated on the Columbia River Gorge National Scenic Area Zoning maps for Wasco County.

SECTION 3.020 Compliance Required

A legal parcel may be used and a legal structure or part of a legal structure may be constructed, moved, occupied, or used only as this Ordinance permits.

New cultivation and some re-cultivation are subject to Chapter 14 – National Scenic Area Review. The Gorge Commission, Forest Service and County will work together to establish a farm stewardship program enabling the County's Technical Advisory Committee, the Soil Conservation Service, Cherry Grower's Association and other affected groups to help educate Wasco County National Scenic Area residents about compliance requirements and preferable farming practices.

SECTION 3.030 Location of Zones

The boundaries of each of the foregoing zones, the zoning classifications and use of each tract in each of said zoning districts are hereby prescribed to coincide with the identifying zone classification.

SECTION 3.040 Zoning Maps

A Zoning Map or Zoning Amendment shall:

A. Be prepared by authority of the Planning Commission or be a modification by the County Board of Commissioners of a map amendment so prepared;

B. Be adopted by order of the County Board of Commissioners thereon;

C. Be dated with the effective date of such action; and

D. Be reviewed by the Columbia River Gorge Commission and Forest Service and approved if appropriate; and

E. Be filed and maintained without change in the Office of the County Clerk as long as this Ordinance remains in effect.

SECTION 3.050 Boundaries of Zones

Boundaries of plan designations are established by the Gorge Commission and Forest Service in accordance with the Columbia River Gorge National Scenic Area Management Plan and Columbia River Gorge National Scenic Area Act (Public Law 99-663). These boundary lines have been transposed onto Wasco County tax lot maps for use in implementing this ordinance.

Original National Scenic Area Maps and Land Use Designation maps are on file at the offices of the USDA Forest Service, National Scenic Area Office, Hood River Oregon and the Gorge Commission Office, White Salmon, Washington.

A. When it is necessary to pinpoint the location of a boundary line on the ground an applicant shall consult with the Gorge Commission and Forest Service regarding the specific location of theboundary.

B. Where a discrepancy exists, the applicant shall work with the Gorge Commission and Forest Service staff to resolve the discrepancy.

SECTION 3.060 Classification of Zones

For the purposes of this Ordinance, the following zones are hereby established:

ZONE	
Large Scale Agriculture	A-1
Small Scale Agriculture	A-2
Industrial Forest	F-1
Small Woodland-Forest	F-3
Rural Residential	RR
Commercial	C
Public Recreation	PR
Commercial Recreation	CR
Open Space	OS
Agriculture Special	A-S

OVERLAY ZONES

Environmental Protection District - EPD

Division 1	Flood hazard overlay
Division 2	Geologic hazard overlay

SECTION 3.100 Uses Permitted Without Review

The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space and Agriculture Special, subject to the applicable property development standards:

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. This does not include trail, road, and railroad expansions.

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 Forest Service natural resource inventories 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:

1. 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:

a. The same location and size as the existing structures and

b. 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."

2. Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are

a. The same location and size as the existing structures and

b. 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."

3. New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

4. Permanent public regulatory, guide, and warning signs, except those excluded below, provided:

a. The signs comply with the *Manual on Uniform Traffic Control Devices;* and

b. 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.

5. 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

a. Located inside rights-of-way that have been disturbed in the past; and

b. 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."

6. New traffic barriers and guardrail ends, provided the structures are

a. Located inside rights-of-way that have been disturbed in the past and

b. 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." This category does not include jersey barriers.

7. In the General Management Area, replacement or 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 beforeconstruction.

8. In the Special Management Area, replacement or 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 beforeconstruction.

9. Maintenance of existing railroad track and paved roads, provided the activity does not

a. Increase the width of a road or railroad

b. Disturb the toe of adjacent embankments, slopes or cut banks, or

10. Apply dust abatement products to non-paved road surfaces.

11. Grade and gravel existing road shoulders, provided the activity does not

a. Increase the width of a road,

b. Disturb the toe of adjacent embankments, slopes or cut banks, or

12. 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:

1. 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.

2. 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:

a. No excavation would extend more than 12 inches beyond the depth and extent of the original excavation,

b. No ditch for linear facilities would be more than 24 inches wide,

c. No excavation for non-linear facilities would exceed 10 cubic yards, and

d. No recorded archaeological site is located within 500 feet of the development. To comply, 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:

1. Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have:

a. The same location and size as the existing facilities and

b. The same building materials as the existing facilities, or building materials that are dark brown with a flat, 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."

2. Replace existing utility poles, provided the replacement poles are

a. Located within 5 feet of the original poles,

b. No more than 5 feet taller and 6 inches wider than the original poles, and

c. Constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

3. 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:

1. Election signs. Removal must be accomplished within 30 days of election day.

2. "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

3. 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 on Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

4. Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or 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.

5. 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.

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

7. In the 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.

SECTION 3.110 Expedited Review

A. Uses Permitted Subject to Expedited Review
The following developments may be allowed on a legal parcel subject to the expedited development review process listed in Chapter 2, provided they comply with the resource protection and procedural guidelines listed below.

1. Except in Open Space and Agriculture-Special, accessory structures/buildings[22] between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory structure/building[22] per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory structure/building(s). Additional accessory structures/buildings[22] shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

2. 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.

3. 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.

4. Wire-strand fences other than those allowed outright, provided the fence complies with the "Approval Criteria for Fences in Deer and Elk Winter Range" in 14.600(C) if it is inside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency.

5. Woven-wire fences for agricultural use that would enclose 80 acres or less. (GMA Only)

6. Decks that are:

a. Uncovered,

b. Attached and accessory to existing dwellings, and

c. 500 square feet or less in area and 30 inches or less in height above existinggrade.

7. Road closure gates

8. Signs, other than those allowed outright subject to the provisions of Chapter 23.

9. Outdoor lights.

10. 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.

11. Property line adjustments and Replats subject to Section 21.200 in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to the applicable property development standards for the zone in which the property is located and all other applicable provisions of Chapter 21, except all lot line adjustments for parcels designated Open Space, Agricultural Special or, Public Recreation, shall be reviewed through the full development review process.

12. Property line adjustments in the Special Management Area subject to Section 21.200 and all other applicable provisions of Chapter 21.

13. Removal/Demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

14. Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.

15. Trail reconstruction involving up to 1,000 feet of trail re-route.

16. 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.

17. New underground utility facilities, except in Agriculture Special, located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no ditch for linear facilities would be more than 36 inches wide and no excavation for non-linear facilities would exceed 20 cubic yards.

18. The following above ground 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.

19. 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 1.200 and the provisions of 13.060 and 13.070.

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.

20. 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.

21. Wind machines for frost control in conjunction with agricultural use. (SMA Only)

22. 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 freestanding solar arrays, which are subject to full review as new structures under Chapter 19.

23. Replacement of existing structures destroyed by disaster that meet eligibility requirements in Chapter 13, Section 13.070.B.

B. Expedited Development Review Process

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

1. 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 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.

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 directed downward and sited, hooded, limited in intensity 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. Structures within ½-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 subordinance, not visually evident).

2. 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. The cultural resources in Section 14.500 shall be used to determine if a reconnaissance and historic survey is required for a proposed development.

b. The requirements of 14.500(G), "Cultural Resources Discovered After Construction Begins", shall be applied as conditions of approval for all development approved under the expedited development review process.

3. Recreation

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

4. Natural

a. Water Resources:

The development is outside water resources and their buffer zones for water resources. 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

(1) The development meets one of the following:

(a) 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; or

(b) 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

(c) For sensitive wildlife, the development is within 1,000 feet of known Priority Habitat 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 or the proposed development would not compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance.

For rare plants, the development is within 1,000 feet of known rare plants, but the Oregon 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 rare plants.

(2) Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife or rare plants in Section 14.600.

C. Treaty Protection Rights

Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

1. Proposed developments shall not affect or modify any treaty or other rights of any tribal government.

2. The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe 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.

3. Except as provided in 2 above, the GMA and SMA treaty rights and consultation criteria in Sections 14.800 & 14.810 shall not apply to proposed developments reviewed under the expedited review process.

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CHAPTER 13 NONCONFORMING USES, BUILDINGS AND LOTS

SECTION 13.010 Purpose

It is necessary and consistent with the establishment of this Ordinance, that all uses and structures incompatible with permitted uses or structures in each zone, be strictly regulated and permitted to exist only under rigid controls. The purpose of such regulation and control, is to change a nonconforming use or structure to a conforming status or to discontinue the use or structure.

SECTION 13.020 Continuation of Nonconforming Uses

Except as is hereinafter provided in this Ordinance, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued as long as it is used in the same manner and for the same purpose, although such use does not conform with the provisions of this Ordinance.

SECTION 13.030 Conveyance of Nonconforming Use

Nothing in this Ordinance shall be construed to limit the sale, transfer, or conveyance of property on which exists a nonconforming building, structure or use, so long as such sale, transfer, or other conveyance does not otherwise violate the provisions of this Ordinance.

SECTION 13.040 Construction on and Conveyance of Nonconforming Legal Parcels

Nothing in this Ordinance shall be deemed to prohibit construction or reconstruction of conforming uses on nonconforming legal parcels or limit the sale, transfer or conveyance of said legal parcels approved prior to the adoption of this Ordinance, so long as the construction, reconstruction, sale, transfer or conveyance is consistent with all applicable provisions of this Ordinance.

SECTION 13.050 Gorge Commission Prior Approved Actions

Any land use action that has been authorized by the Gorge Commission or Forest Service for the Columbia River Gorge National Scenic Area shall remain valid for the time period initially authorized or a time period granted by extension in accordance with Commission Rule 350-110 or the Interim Guidelines, as applicable. All land use actions authorized under Interim Guidelines shall maintain concurrent County approval to remain valid.

Nothing in the Ordinance will require the loss of a use, activity, structure or parcel of land that was approved by the Gorge Commission or Forest Service for the time period initially authorized or a time period granted by extension in accordance with Commission Rule 350-110 or the Interim Guidelines, as applicable. If an approval period has lapsed without extension, the development action shall be processed as a new action subject to current County Land Use Ordinance.

SECTION 13.060 Verification of Nonconforming Use

Must meet lawfully established and discontinuance or abandonment criteria below.

A. Lawfully Established: For a nonconforming use to be verified as lawfully established it shall be consistent with all of the following:

1. The nonconforming use has not been expanded in size or area or changed in purpose or use beyond what was lawfully established;

2. The property on which the nonconforming use is located meets the definition of legal parcel in Chapter 1 of this ordinance;

3. The nonconforming use was lawfully established on or before the effective date of the provisions of this ordinance prohibiting the use verified by either a or b below. No unlawful use of property existing at the time of the effective date of the provisions of this ordinance shall be deemed a nonconforming use.

a. Type I Verification: Lawfully established is verified by non-discretionary evidence including but not limited to zoning approval or County Assessor records verifying the date of establishment. This type of verification is not subject to any review process because it does not involve the exercise of any discretion or judgment. If the applicant wishes documentation of this it shall be done as a Land Use Verification Letter.

b. Type II Verification: Lacking non-discretionary evidence, lawfully established is verified by a discretionary process consistent with Section 2.050(A)(7).

It is the burden of the applicant to provide a preponderance of evidence which will allow the Planning Director to conclude the nonconforming use was lawfully established. Such evidence includes but is not limited to:

-Utility Bills and Records (phone, power, sewer, water)
-Aerial Photographs
-Dated Photos
-Notarized Letters or Affidavits affirming the date of establishment

B. Discontinuance or Abandonment: For a nonconforming use to be verified as lawfully established it must not have been discontinued or abandoned according to the following criteria. Based on the circumstances, the Director shall determine whether discontinuance or abandonment shall be reviewed as a Type I or Type II process as described in A above.

1. The reference period for determining whether an abandonment or interruption of a nonconforming use or an aspect thereof has occurred shall be twelve (12) consecutive months. Proof of intent to abandon is not required to determine that a nonconforming use has been discontinued or abandoned.

2. An abandonment or interruption of a use may arise from the complete cessation of the actual use for a twelve (12) month period even if improvements to support the use remain in place.

3. An interruption or abandonment for a twelve (12) month period that constitutes less than full cessation of the use or a portion thereof may result in a declaration of a continuing use, but of a lesser intensity or scope than what would have been allowable if the nature and extent of the use as of the date it became nonconforming had continued, even if improvements to support the full use remain in place.

4. If a use or structure is used in a different manner or for a different purpose for a twelve (12) month period than was lawfully established, such a change shall result in a determination that the use has been abandoned or hasceased.

   Factors to be considered in determining whether there has been a change in the nature of a use shall include, but are not limited to, consideration of the type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.

SECTION 13.070 Restoration or Replacement of Legally Created Nonconforming Structure

A. Replacement of Existing Structures Not ~~Damaged or~~ Destroyed by Disaster: Except as provided in criterion B below, an existing structure may be replaced ~~if a complete land use application for a replacement structure is submitted to Wasco County 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:

1. The replacement structure shall have the same use as the ~~original~~ existing structure.

2. The replacement structure may have a different size and/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.

3. The replacement structure shall be subject to the scenic, cultural, recreation and natural resources criteria; the treaty rights criteria; and the land use designations criteria for agricultural buffer zones, fire protection, and siting of dwellings on forest land.

~~4. 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.~~

B. 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 in accordance ~~if a complete land use application for a replacement structure is submitted to the Wasco County within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply~~ with the following standards:

~~1. The replacement structure shall have the same use as the original structure. An existing manufactured home may be replaced with a framed residence.~~

1. If the replacement structure does not comply with guidelines set forth in subsections 13.070.B.3 through 13.070.B.5, then it shall be subject to subsection 13.070.A. and the time period criterion set forth in subsection 13.070.B.7.

2. As used in guidelines 3, 4, and 5, 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, consistent with this ordinance.

3. The replacement structure shall have the same use as the original structure. An existing manufactured home may be replaced with a framed residence.

~~2.~~4. 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 all the following conditions exist:~~

~~**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 the cultural resources, natural resources, and treaty rights protection criteria.~~

~~3.~~5. ~~The~~ A replacement structure shall not exceed ~~be the~~ the same square foot size, footprint, and height as the original structure. The size, footprint, and height of a 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:~~, provided:~~

a. The ~~footprint~~ square foot size of ~~the~~ a replacement structure may be ~~up to 10 percent~~ larger than the ~~footprint~~ square foot size of the original structure only as follows:~~. The footprint of a structure includes any covered decks and porches, attached garages, and breezeways that share a wall with the structure.~~

(1) 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.

(2) If the original structure was larger than 1,250 square feet in size and no larger than 2,000 square feet in size, the replacement structure may be built up to 1,500 square feet in size or 10 percent larger than the original structure, whichever is larger.

(3) 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.

(4) 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, whatever is larger.

~~a.~~**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.

c. ~~**b.**~~ The walls of the replacement structure shall not exceed the ~~be the same~~ 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 ~~H~~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 nine (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 guidelines 5a through 5d, 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, costs 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 the guidelines 5a through 5d.

~~4.~~6. In addition to the standards above, ~~T~~the replacement structure shall only be subject to the following scenic and cultural resources standards, and not other standards in Part I and Part II of the Management Plan. These standards apply to all replacement structures, including replacement

structures for original structures that existed prior to the National Scenic Area Act:

Scenic Resources

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

b. 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.

c. In the General Management Area, the replacement structure shall comply with the GMA scenic resources criteria regarding landscaping. These criteria 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.

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

(1) 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 species are identified in the Scenic Resources Implementation as appropriate to the area.

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

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

e. 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 guidelines 6a-d above.

Cultural Resources

a. Replacement structures proposed by federal agencies shall comply with SMA Cultural Resources Policy 2 in Part I, Chapter 2: Cultural Resources of the Management Plan.

b. In the General Management Area, if the structure is replaced in the identical location, orientation, and footprint, and is the identical or small size in height as the original structure, then the structure shall not require review for cultural resources.

c. In the General Management Area, if the structure is replaced in accordance with the standards in Section 13.070.B.4 and 5 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 the GMA Guidelines in Part I: Chapter 2: Cultural Resources.

d. In the Special Management Areas, if the structure is replaced in accordance with the standards in Section 13.070.B.4 and 5 above, then the structure shall be reviewed for consistency with the GMA Guidelines in Part I, Chapter 2: Cultural Resources.

~~**5.** The replacement structure shall be subject to A(1) A(2) and A(3) above if it would not comply with B(2) and B(3) above.~~

~~**6.** 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.~~

7. 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 disasters 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.

8. An application for a replacement structure that complies with Section 13.070.B.2 through 13.070.B.6 shall be reviewed using the Procedural Guidelines for the Expedited Review process and Resource and Treaty Rights Protection Guideline for the Expedited Review process found in Chapter 3 Basic Provisions, Section 3.110 of this Ordinance.

9. 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.

10. 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.

11. 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.

12. 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.

SECTION 13.080 Change to Nonconforming Uses & 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 this Ordinance.

A. Expansion of Existing Industrial Uses in the GMA 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 section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

SECTION 13.100 Mineral Resource Extraction (SMA Only)

Uses involving the exploration, development or production of sand, gravel or crushed rock in Special Management Areas may continue when:

A. The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in Special Management Areas; and

B. A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreational resources.

SECTION 13.110 Solid Waste Disposal (SMA Only)

Solid waste disposal sites or sanitary landfills are not allowed in Special Management Areas.

SECTION 13.200 Consolidation of Undeveloped Subdivisions

A. Consolidation of Undeveloped Subdivisions

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 92, Undeveloped Subdivisions.

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. Criterion A 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. Lots shall be consolidated through the process outlined in ORS 92, Undeveloped Subdivisions, or through a replat process as outlined in Chapter 21.

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CHAPTER 16 - EMERGENCY/DISASTER RESPONSE ACTIONS

SECTION 16.010 Purpose

Post-emergency/disaster response development review is required in order to evaluate whether such response actions have impacted scenic, natural, cultural or recreation resources. Adverse impacts of the response actions shall be mitigated to the greatest extent practicable. The review process shall be expedited to facilitate timely mitigation/restoration efforts, where needed.

SECTION 16.020 Responsible Party

The party(ies) submitting the post-emergency/disaster response application shall be responsible for implementing any required mitigation/restoration, unless:

A. Other responding parties agree to assume such responsibility, upon mutual agreement of the parties; or

B. The landowner denies access for mitigation/restoration activities, in which case the landowner assumes responsibility.

SECTION 16.030 Emergency/Disaster Action Requirements

A. Responsible Party Operational Requirements:

1. 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.

2. 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 Wasco County Planning Division or the Forest Service for federal agency actions.

3. 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.

4. 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 determine to not be possible without further jeopardizing life or property.

B. Responsible Party Notification Requirements

Actions taken in response to an emergency/disaster event, as defined in the Section 1.200, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

1. 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.

2. 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.

3. Notification shall be furnished to the Wasco County Planning Division, or the Forest Service for federal agency actions.

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

a. Nature of emergency/disaster event.

b. 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.).

c. Location of emergency/disaster response activities.

d. Estimated start and duration of emergency/disaster response activities.

e. Contact person and phone number for the parties conducting emergency/disaster response actions.

5. Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

C. Agency Responsibility

1. Upon notification of an emergency/disaster response action, the Wasco County Planning Division 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.

2. 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.

SECTION 16.040 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 Wasco County Planning Division, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency 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:

1. Applicants name and address.

2. Location of emergency/disaster response.

3. A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

4. 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:

a. North arrow and scale.

b. Boundaries, dimensions and size of subject parcel(s).

c. Bodies of water, watercourses, and significant landforms.

d. Existing roads and structures.

e. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

5. An exception to the scale requirements in D(4) 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.

SECTION 16.050 Post-Emergency/Disaster Response Development Review Requirements

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

1. Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties.

2. A written decision with findings of fact and conclusions of law.

3. An opportunity to request a hearing.

B. Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined in Section 1.200, shall be reviewed for compliance with the following guidelines.

1. 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 visible from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordinance requirements in 14.400(J), Special Settings. In the SMA, such actions shall meet the scenic standard 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 oneyear.

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 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 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:

(1) The spoil materials shall either be:

(a) Removed from the NSA,

(b) Deposited at a site within the NSA permitted by the Wasco County Planning Division, or

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

(2) The Wasco County Planning Division shall decide whether an applicant removes the spoil materials, deposits the spoil materials, or (re)contours the spoils materials. The applicant does not make this decision.

(3) The Wasco County Planning Division shall select the action that, to the greatest extent practicable, best complies with the provisions of Chapter 14 that protect scenic,

cultural, recreation, and natural resources.

(4) Disposal sites created according to f(1)(b) 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:

(1) The spoil materials shall either be:

(a) Removed from the NSA, or

(b) Deposited at a site within the NSA permitted by the Wasco County Planning Division within two years of the emergency.

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

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

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

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

(6) This provision shall take effect two years after the date of Management Plan concurrence by the U.S. Secretary of Agriculture, or approval of a disposal site, whichever comes first.

2. 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. 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 Wasco County Planning Division.

(1) Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the criteria in Section 14.500. Reconnaissance survey reports shall comply with the criteria in Section 14.500.

(2) 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.

c. 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 development review offer when a reconnaissance survey is required or 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. The Wasco County Planning Division shall send a copy of all comments to the Gorge Commission.

d. When written comments are submitted in compliance with (c) 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 Wasco County Planning Division following the consultation meeting. Consultation meetings and reports shall comply with the standards in Section 14.500.

e. 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 14.500.

f. 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 Mitigation Plan Criteria and Information Needs in Section 14.500.

g. The Wasco County Planning Division 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 agency conducting the post-emergency development review. The agency shall record and address all written comments in the development review order.

h. The Wasco County Planning Division 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 agency shall justify how it reached an opposing conclusion.

i. 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:

(1) 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.

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

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

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

(a) 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

(b) 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].

3. 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, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in Sections 14.600 and 14.610, Natural Resources.

c. Wetlands, Streams, Ponds, Lakes, Riparian Areas

(1) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the Oregon Department

of Fish and Wildlife (ODFW). 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.

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

(a) 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.

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

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

(4) If The Wasco County Planning Division, in consultation with ODFW, determines that the emergency/disaster response actions had minor effects on the aquatic area 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 consolation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the agency administering the National Scenic Area ordinance shall incorporate them into its development review order and the aquatic area protection process may conclude.

(5) Unless addressed through (4) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in Section 14.600. Rehabilitation plans shall also satisfy the following:

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

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

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

d. Wildlife Habitat

(1) Emergency/disaster response actions occurring within 1,000 feet of a sensitive wildlife area or site, shall be reviewed by the Oregon or 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 site.

(2) Site plans for emergency/disaster response sites shall be submitted by the Wasco County Planning Division to ODFW for review as prescribed in Section 14.600. The wildlife agency shall respond within 15 days of the date the application is mailed.

(3) The wildlife protection process may terminate if the Wasco County Planning Division, in consultation with the state wildlife agency, determines the sensitive wildlife area or site was not active, or the emergency/disaster response did not compromise the integrity of the wildlife area or site or occurred at a time when wildlife species are not sensitive to disturbance.

(4) If The Wasco County Planning Division, in consultation with ODFW, determines that the emergency/disaster response activities had minor effects on the wildlife area or 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 agency administering the National Scenic Area ordinance shall incorporate them into its development review order and the wildlife protection process may conclude.

(5) If the Wasco County Planning Division, in consultation with the ODFW, determines that the emergency/disaster response activities had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with standards in Section 14.600. Upon completion of the Wildlife Management Plan, the agency shall:

(a) Submit a copy of the Wildlife Management Plan to the state wildlife agency for review. ODFW will have 15 days from the date that a plan is mailed to submit written comments to the agency conducting the post-emergency development review;

(b) Record any written comments submitted by the ODFW in its development review order. Based on these comments, the agency conducting the post-emergency development review 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 ODFW, the Wasco County Planning

Division shall justify how it reached an opposing conclusion.

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

e. Deer and Elk Winter Range

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 14.600.

f. Rare Plants

(1) Emergency/disaster response actions occurring within 1,000 feet of a rare plant, shall be reviewed by the Oregon Biodiversity Information Center. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(2) Site plans for emergency/disaster response sites shall be submitted to the Oregon or Natural Heritage Program by the agency conducting the post-emergency development review. 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.

(3) The rare plant protection process may conclude if the Wasco County Planning Division, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plan buffer zone.

(4) If the Wasco County Planning Division, 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 Wasco County Planning Division shall incorporate them into its development review order and the rare plant protection process may conclude.

(5) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse affects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan that meets the standards in Section14.600.

(6) The Wasco County Planning Division shall submit a copy of all Rare Plant Mitigation Plans to the state heritage program for review. The state natural heritage program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the Wasco County Planning Division.

The Wasco County Planning Division review shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, it 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 Wasco County Planning Division shall justify how it reached an opposing conclusion.

(7) The Wasco County Planning Division shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rate plant site.

4. 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.

16.060 Post-Emergency/Disaster Construction

A. The following review uses are allowed in all land use designations subject to a full National Scenic Area Review.

1. 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 events.

16.070 Post-Disaster Temporary Dwellings and Structures

Temporary structures and uses on parcels where a structure was destroyed by disaster may be permitted ~~in accordance with the following standards~~ in all GMA and SMA land use designations subject to applicable Chapter 11 Fire Safety Standards criteria, applicable property development standards within the zone or applicable criteria for a non-conforming use and development, and other applicable criteria provided in this section:

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 ~~local government~~ (Wasco County Planning Division) shall approve the placement of a recreational vehicle and temporary structure.

   a. The property owner shall continue to provide a lawful method of sewage disposal for the duration of the permit. The permit is subject to the inspection of the Wasco County Planning Division Code Compliance program for compliance with a lawful method of sewage disposal. Violations, or failure to disclose a lawful method of sewage disposal may subject the permit to penalties or revocation.

D. Every two years, the landowner shall submit documentation of their continuing need for the recreational vehicle and temporary structure. The ~~local government~~ (Wasco County Planning Division) 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.