AGENDA: REGULAR SESSION

WEDNESDAY, OCTOBER 20, 2021

WASCO COUNTY BOARD OF COMMISSIONERS

https://wascocounty-org.zoom.us/j/3957734524 OR Dial 1-253-215-8782 Meeting ID: 3957734524#

PUBLIC COMMENT: Individuals wishing to address the Commission on items not already listed on the Agenda may do so during the first half-hour and at other times throughout the meeting; please wait for the current speaker to conclude and raise your hand to be recognized by the Chair for direction. Speakers are required to give their name and address. Please limit comments from three to five minutes, unless extended by the Chair.

DEPARTMENTS: Are encouraged to have their issue added to the Agenda in advance. When that is not possible the Commission will attempt to make time to fit you in during the first half-hour or between listed Agenda items.

NOTE: With the exception of Public Hearings, the Agenda is subject to last minute changes; times are approximate – please arrive early. Meetings are ADA accessible. For special accommodations please contact the Commission Office in advance, (541) 506-2520. TDD 1-800-735-2900. If you require and interpreter, please contact the Commission Office at least 7 days in advance.

Las reuniones son ADA accesibles. Por tipo de alojamiento especiales, por favor póngase en contacto con la Oficina de la Comisión de antemano, (541) 506-2520. TDD 1-800-735-2900. Si necesita un intérprete por favor, póngase en contacto con la Oficina de la Comisión por lo menos siete días de antelación.

9:00 a.m.	**CALL TO ORDER** Items without a designated appointment may be rearranged to make the best use of time. Other matters may be discussed as deemed appropriate by the Board. **Corrections or Additions to the Agenda** ***Discussion Items***: Vaccination Updates; OIB Recommendation; JCP Agreement *(Items of general Commission discussion, not otherwise listed on the Agenda)* ***Consent Agenda***: 9.29.2021 Work Session Minutes; 10.6.2021 Regular Session Minutes; 9-1-1 Service Agreements Renewal *(Items of a routine nature: minutes, documents, items previously discussed.)*
9:30 a.m.	Wasco County Land Use Ordinance Hearing Wasco County National Scenic Area Ordinance Hearing – Kelly Howsley-Glover
11:00 a.m.	Helion BOPTA Module Agreements – Lisa Gambee
11:15 a.m.	PowderPure Enterprise Zone Modification Resolution – Matthew Klebes
11:30 a.m.	Executive Session – Pursuant to 192.660 (2)(n) Security Programs
BREAK	
2:00 p.m.	Strategic Investment Program Agreement & Resolution – Matthew Klebes
	COMMISSION CALL
	NEW/OLD BUSINESS
	ADJOURN

If necessary, an Executive Session may be held in accordance with: ORS 192.660(2)(a) – Employment of Public Officers, Employees & Agents, ORS 192.660(2)(b) – Discipline of Public Officers & Employees, ORS 192.660(2)(d) – Labor Negotiator Consultations, ORS 192.660(2)(e) – Real Property Transactions, ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection, ORS 192.660(2)(g) – Trade Negotiations, ORS 192.660(2)(h) - Conferring with Legal Counsel regarding litigation, ORS 192.660(2)(i) – Performance Evaluations of Public Officers & Employees, ORS 192.660(2)(j) – Public Investments, ORS 192.660(2)(n) –Security Programs, ORS 192.660(2)(n) – Labor Negotiations

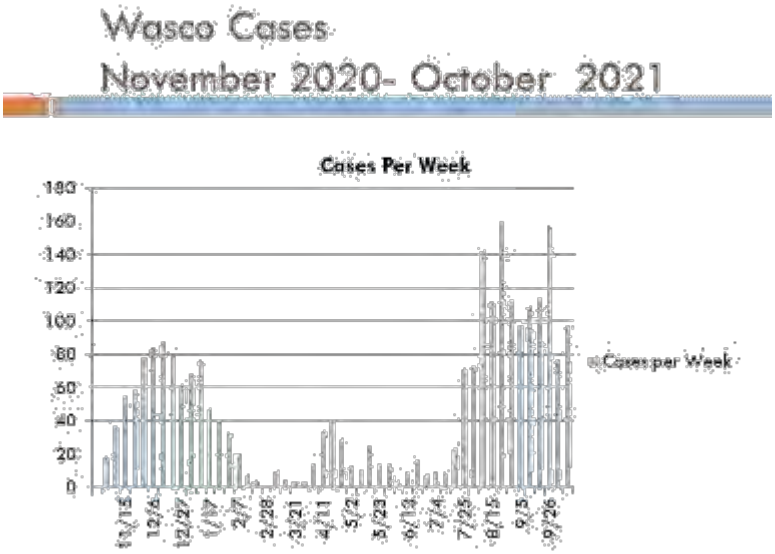
WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
OCTOBER 20, 2021
This meeting was held on Zoom
https://wascocounty-org.zoom.us/j/3957734524
or call in to 1-253-215-8782 Meeting ID**: 3957734524#**

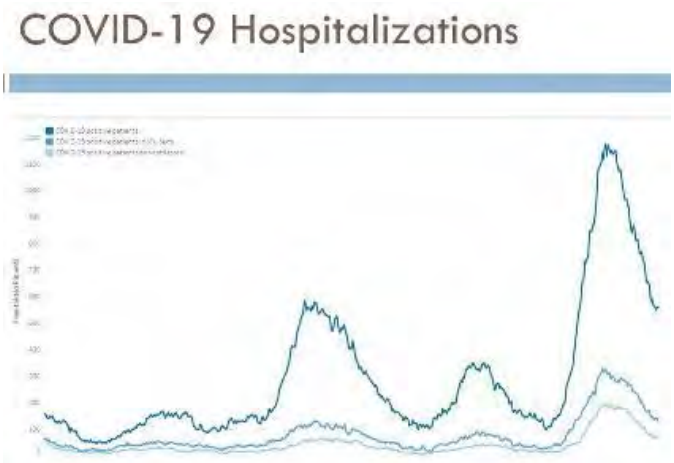
PRESENT:	Scott Hege, Chair
	Kathy Schwartz, Vice-Chair
	Steve Kramer, County Commissioner
STAFF:	Kathy Clark, Executive Assistant
	Tyler Stone, Administrative Officer

Chair Hege opened the session at 9:00 a.m.

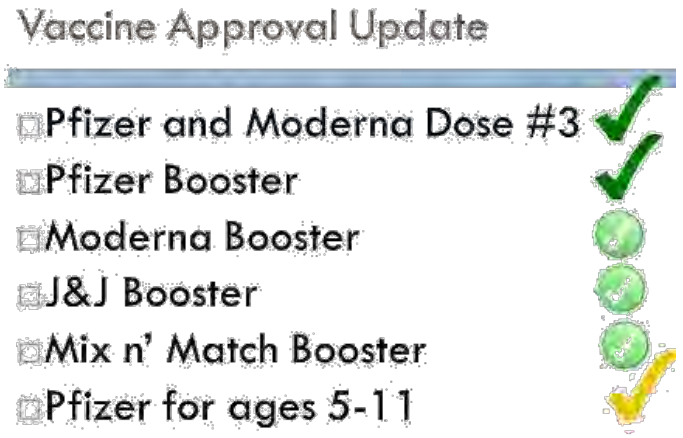
Discussion Item – NCPHD COVID Update

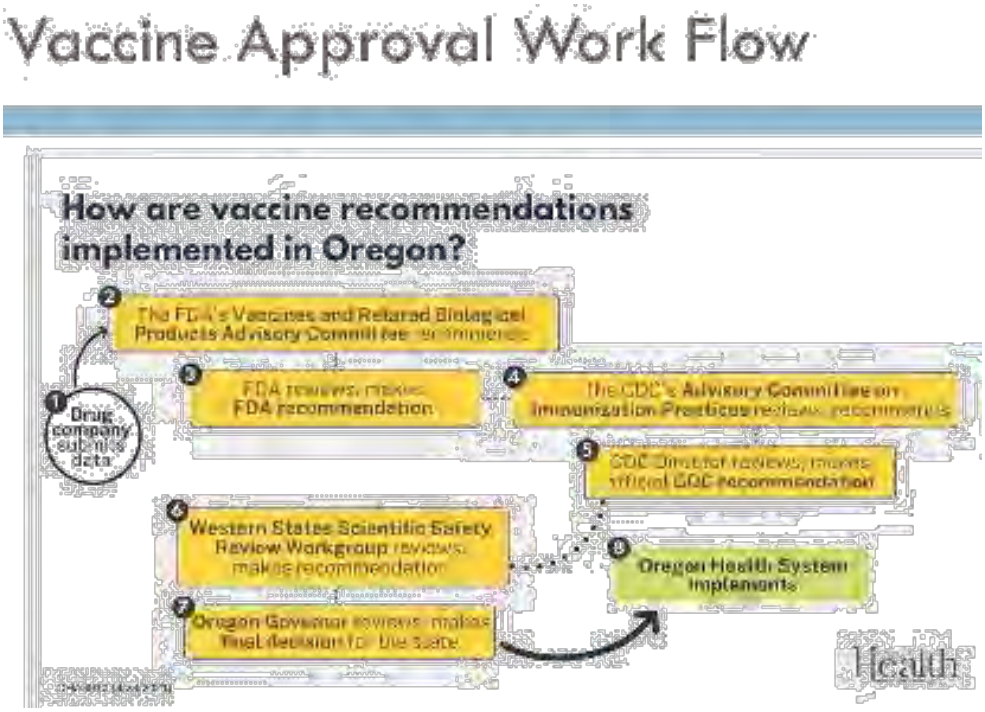
North Central Public Health District Public Health Officer Dr. Mimi McDonell reviewed the cases in Wasco County since last November. She pointed out that although cases have begun to drop, we are still at a rate higher than we were at our winter peak. Hospitalization is down throughout the state but in our region we recently had no ICU beds available.

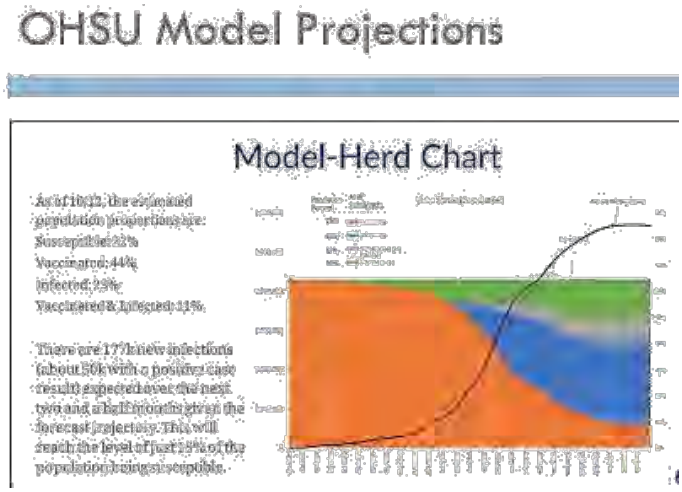




Dr. McDonell reported that Pfizer and Moderna vaccines have both been approved for a 3rd dose. Pfizer has been approved for a booster dose, while Moderna and Johnson & Johnson, along with a mix 'n match booster are still undergoing review – decisions and approvals are expected soon. Once approved, guidelines will need to be developed and local approval needed prior to implementation.

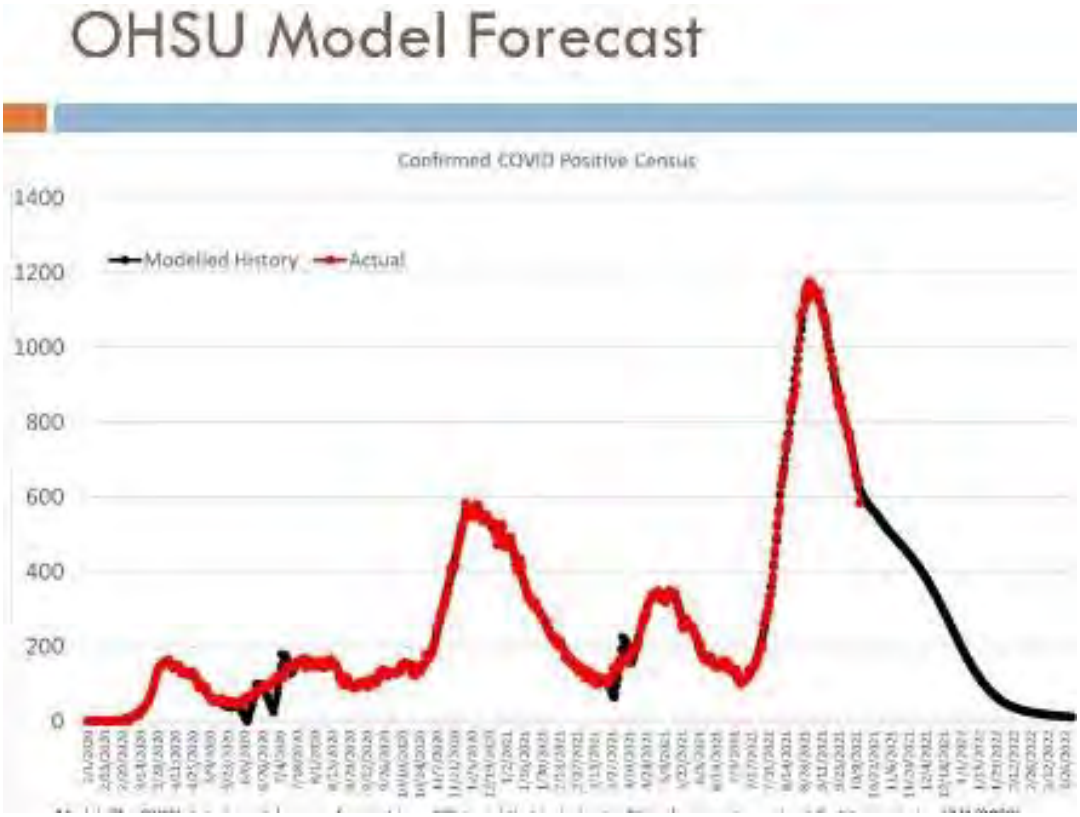






Dr. McDonell explained that the goal of herd immunity is within our ability to accelerate by getting immunized and following the COVID protocols of masking, social distancing and personal hygiene. The orange area indicates the percent of the population most susceptible; blue is the percent vaccinated; grey is both vaccinated and infected; green are those who have been infected. Having been infected provides a shorter span of

immunity than being vaccinated. OHSU has been very accurate in their forecasting but we can accelerate or slow the progress with our behavior.



Vice-Chair Schwartz asked if it is better to get the same brand or a different brand than what you were originally given. Dr. McDonell replied that those discussions are being held. It could be that those who got the Johnson & Johnson might be better off with a different brand. Recommendations should be forthcoming.

Vice-Chair Schwartz noted that while we are approaching herd immunity in Oregon that is not necessarily true locally. The data may be somewhat skewed as urban areas have higher vaccination rates than rural counties. She said we need to message that so local populations understand the risks here. Dr. McDonell said it is a challenge; we don't want people to feel hopeless but we want them to understand that they have the power to impact how soon we reach herd immunity by getting vaccinated and following best practices.

Vice-Chair Schwartz asked if test kits have become more readily available. Dr. McDonell said she believes that they have become a little more available when purchased in bulk online but not many people want to buy them in bulk. The federal government wants them to be more available in stores but it has not

happened locally.

Chair Hege asked if people who have been infected still need to be vaccinated. Dr. McDonell replied that you can get COVID more than once – the Delta variant has shown us that. A vaccination is important. An individual may or may not have good immunity after being infected; immunity wanes. If someone has gotten COVID, we expect a 90 day window for immunity. Natural immunity wanes more quickly than vaccinated immunity.

Chair Hege asked what the current masking guidelines are. Dr. McDonell answered that if you are in an indoor public space or outdoors where you cannot remain socially distant, you should be masked. Chair Hege asked if that is regardless of vaccination status. Dr. McDonell replied affirmatively.

Consent Item – 9-1-1 Service Agreement

Dispatch Operations Manager Joe Davitt explained that this is a renewal for a service agreement for our 911 phone system. This service is paid for by the State 911; bills go directly to them. He stated that he submitted this agreement for legal review and Board approval. The agreement also provides for regular updates to the system.

Chair Hege asked about the change of service providers. Mr. Davitt said that our previous vendor had not been updating for 2-3 years; updates should happen every 6 months. Day Wireless has been reliable in other areas and he felt they would provide that same level of service for this. Their technician has already been out to do updates.

The Board thanked Mr. Davitt and his staff for all the good work they do.

Discussion Item – OIB Recommendation

Ms. Clark explained that Mr. Barragan is already serving on the OIB; the letter included in the packet is to recommend him for reappointment. She said that MCEDD supports the local Oregon Investment Board and has high praise for Mr. Barragan's work.

*****The Board was in consensus to sign the letter of recommendation to the Governor recommending Jorge Barragan's reappointment to the Oregon Investment Board.*****

Discussion Item – JCP Agreement

Ms. Clark explained that this agreement is the same as in previous years and provides the basic Juvenile Crime Prevention funding for Youth Services.

{{{Commissioner Kramer moved to approve IGA 14693 between Wasco County and the State of Oregon for Juvenile Crime Prevention Basic Services. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Consent Agenda – 9.29.2021 & 10.6.2021 Minutes; 911 Agreement

{{{Vice-Chair Schwartz moved to approve the Consent Agenda. Commissioner Kramer seconded the motion which passed unanimously.}}}

Public Comment

Public Works Director Arthur Smith updated the Board on a recent Road Rally Permit application in which the applicant had requested a 4th route in addition to the 3 historically used for the rally. He reminded the Board that they had directed him to allow the 4th route only if the organizer could obtain the support of the local residents, which is the case with the other 3 routes. The applicant has withdrawn their request for the 4th route and Public Works will proceed with the permit according to law. The Rally will take place on November 7, 2021.

Debi Ferrer commented that she appreciates the work of the Board and NCPHD in leading us through the COVID pandemic by following the science.

Public Hearing – Wasco County NSA LUDO Updates

At 9:30 a.m. Chair Hege opened a public hearing for 921-21-000088, a review of a recommendation made by the Wasco County Planning Commission for: A legislative hearing to consider approving amendments to the Wasco County National Scenic Area Land Use and Development Ordinance based on mandatory amendments approved by the Columbia River Gorge Commission to the National Scenic Area Management Plan.

The proposed amendments will have a widespread affect, on many properties and zones, and is therefore a legislative amendment.

As a reminder, the process for this amendment has been consistent with the notice procedures required by Chapter 2 of the LUDO, this hearing was advertised for today, October 20, 2021, 9:30 a.m. via electronic video conferencing, as permitted

by Oregon Revised Statutes 192.640 and192.670. Notice was provided in the newspaper and on the County's website.

This hearing is the first of two Board of County Commission hearings scheduled for this text amendment. The second hearing will be on November 3, 2021 at 9:30 AM. The criteria for approval of this request include:

- Wasco County Comprehensive Plan Chapter 11
- Oregon Administrative Rules 660-025
- National Scenic Area Act and National Scenic Area Management Plan

The hearings process, notice and appeal period are governed by ORS 197.612 and by ORS 197.763 and qualify as a land use decision under ORS 197.015(11). The proposed amendments must comply with the National Scenic Area Management Plan.

1. The Planning Department will provide a brief overview of their September 7, 2021 presentation of the amendments recommended by the Planning Commission.
2. The Board of Commissioners will ask questions of staff.
3. Members of the public are asked to testify.
4. The Board of Commissioners will deliberate and will provide direction to staff for any additional information or amendments they would like to see for the next hearing.

Chair Hege asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter. There were none wishing to disqualify themselves.

Planning Director Dr. Kelly Howsley-Glover reviewed the presentation and staff report included in the Board Packet. She explained that their focus was on mandated changes; other changes will be preceded by public discourse. She highlighted some areas of change that are of concern to the Planning Commission and/or Planning staff.

1) The change in terminology from "cottage industry" to "home occupation." The previous Planning Director Angie Brewer submitted multiple comments to the Gorge Commission expressing her concern that the term "home occupation" is more restrictive and would disallow some uses that are currently being allowed.

That change will need to be addressed by applicants in the permitting process.

2) In addition, a number of comments were submitted to the Gorge Commission during the Plan's development regarding the 20 acre cap on urban growth.

Dr. Howsley-Glover concluded by saying that the second hearing will be held on November 3, 2021.

Chair Hege opened the floor for Commissioner questions. Commissioner Kramer commented that these are mandated changes; the Board does not have discretion.

Chair Hege asked if "home occupation" is just a name change from "cottage industry." He asked if they are different, will those currently permitted under the term "cottage industry" be grandfathered in and able to continue.

Dr. Howsley-Glover replied that typically with uses, there is something called a goal post rule – if you received a permit it, is forever as long as there is continuous use. For instance, the RV park that was permitted and then discontinued for that use could not be re-permitted under the current rules.

Dr. Howsley-Glover went on to explain that words are important in planning. The Gorge Commission believes that "home occupation" is the same as "cottage industry;" we believe they are different. Home occupation is a home-based business – a business run within the home. Under the new term, the gelato facility and denture facility currently permitted could not now be permitted.

Vice-Chair Schwartz asked if it is possible that the Gorge Commission meant to encapsulate both of those uses in "home occupation." Dr. Howsley-Glover replied that she does not have first-hand knowledge, but she believes that they expressed that intention. However, their intent does not make it so in practice. We have to adopt the mandatory provisions of their Management Plan which means we had to remove the term "cottage industry."

Chair Hege stated that the Land Use and Development Ordinance (LUDO) is really important to those living in the National Scenic Area (NSA) because these rules govern what they can do on their property. He asked that if the Gorge Commission includes "cottage industry" in the term "home occupation," will there be a difference in how we implement the ordinance. Dr. Howsley-Glover responded that she believes there will as they have to follow the legal definition

no matter what the Gorge Commission's intent was when they wrote the Plan. If it is not defined, then they follow case law.

Chair Hege echoed Commissioner Kramer's comments, saying that these are not rules we have any flexibility on; even though the Board may adopt them, they are all requirements of the Gorge Commission Plan – we do not have a choice.

Dr. Howsley-Glover stated that the updates being presented today are all mandatory. Comments received from DLCD and Friends of the Gorge included items that are either optional or outside of the scope of the Management Plan. One exception, noted in the Friends of the Gorge comment, is related to water resources. The Columbia River Gorge Commission married riparian areas, wetlands and waterways all under water resources. Staff analysis found that potentially problematic from the perspective that we administer slightly different programs related to those resources; we want to make sure that we are still consistent from a planner's perspective and also for transparency for citizens in the way we implement elsewhere. Otherwise, this is all mandatory.

Vice-Chair Schwartz observed that we have received no citizen comments and asked if we notified citizens. Dr. Howsley-Glover replied that a postcard of the rule changes for the Gorge Commission was sent and then again for this hearing. A letter was sent in English and Spanish in which the changes were listed and explained. Staff also took a couple of calls to answer questions.

Chair Hege observed that the post card has some state-required language that can be alarming – it is mandatory language. He commended the Planning Department for the good job they do in taking comments and holding public meetings to hear from the public. It is important to be involved. He pointed out that the Board recently approved an updated Comprehensive Plan, but that LUDO is where the rubber meets the road.

Vice-Chair Schwartz also applauded the work done by the Planning Department, highlighting the comprehensive website that is so informative. The level of communication is phenomenal.

Chair Hege commented that this is an overwhelming process – today's Board Packet is over 900 pages. It is hard to understand all of it, but we are here to answer questions and there will be another hearing in 2 weeks.

Chair Hege opened the floor to public comments or questions.

Debi Ferrer of The Dalles thanked the Planning Department for their diligent work. She said in the optional updates, she would encourage them to undertake DEI (Diversity, Equity & Inclusion) and climate change. Also, related to ag labor housing, which is not an allowed use in the Management Plan – it should be removed.

Dr. Howsley-Glover noted that Oregon is simultaneously working on both DEI and climate change. She said that she expects that to coincide with our work and we will be able to have a county-wide conversation on these two important topics. She said she is not sure if it will be rules or policy. She added that she has not seen anything from the Gorge Commission.

Dr. Howsley-Glover went on to say that the ag labor is an optional rule and so was not addressed in the current update. She said that they highly value citizen involvement and want them to be able to have that public conversation.

Steve McCoy of Friends of the Columbia Gorge said that ag labor housing is currently a conditional use – that was a scrivener's error that needs to be fixed. It is not allowed in the Management Plan – it is an old mistake that needs to be corrected.

Commissioner Kramer requested a full accounting of the costs associated with these mandatory updates.

Commissioner Kramer read the proposed ordinance by title only: Ordinance 21-003 in the Matter of The Wasco County Planning Commission's Request to Approve Proposed Legislative Amendments to Update The Wasco County National Scenic Area Land Use and Development Ordinance.

The hearing was closed at 10:07 a.m.

Public Hearing – Wasco County LUDO Updates

At 10:07 a.m. Chair Hege opened a public hearing for 921-20-000167, a review of a recommendation made by the Wasco County Planning Commission for: A legislative hearing to consider approving amendments to the Wasco County Land Use and Development Ordinance based on mandatory amendments to State Law, updates made to the Wasco County Comprehensive Plan, and improvements to

procedural sections based on detailed analysis. The proposed amendments will have a widespread affect, on many properties and zones, and is therefore a legislative amendment.

The process for this amendment has been consistent with the **notice procedures** required by Chapter 2 of the LUDO, this hearing was advertised for today, October 20, 2021, 9:30 a.m. via electronic video conferencing, as permitted by Oregon Revised Statutes 192.640 and192.670. Notice was provided in the newspaper and on the County's website.

This hearing is the first of two Board of County Commission hearings scheduled for this text amendment. The second hearing will be on November 3, 2021 at 9:30 AM. The criteria for approval of this request include:

- Wasco County Comprehensive Plan Chapter 11
- Oregon Administrative Rules 660-025

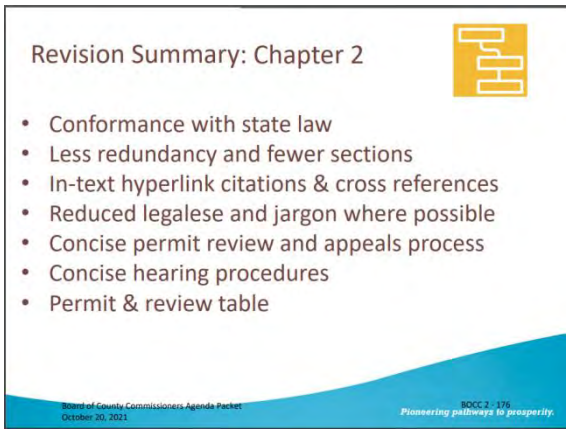
The hearings process, notice and appeal period are governed by ORS 197.612 and by ORS 197.763 and qualify as a land use decision under ORS 197.015(11). The proposed amendments must comply with the Wasco County Comprehensive Plan.

1. The Planning Department will provide a brief overview of their September 7, 2021 presentation of the amendments recommended by the Planning Commission.
2. The Board of Commissioners will ask questions of staff.
3. Members of the public are asked to testify.
4. The Board of Commissioners will deliberate and will provide direction to staff for any additional information or amendments they would like to see for the next hearing.

Chair Hege asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter. There were none wishing to disqualify themselves.

Senior Planner Daniel Dougherty reviewed the presentation included in the Board Packet regarding Chapter 2 updates. He said that this is a permit roadmap to all permit processing, public noticing, and legal compliance with state law, efficiency and equity. One of the main goals of the update is to make it easier to understand for both planners and the public and to make the processes more efficient while

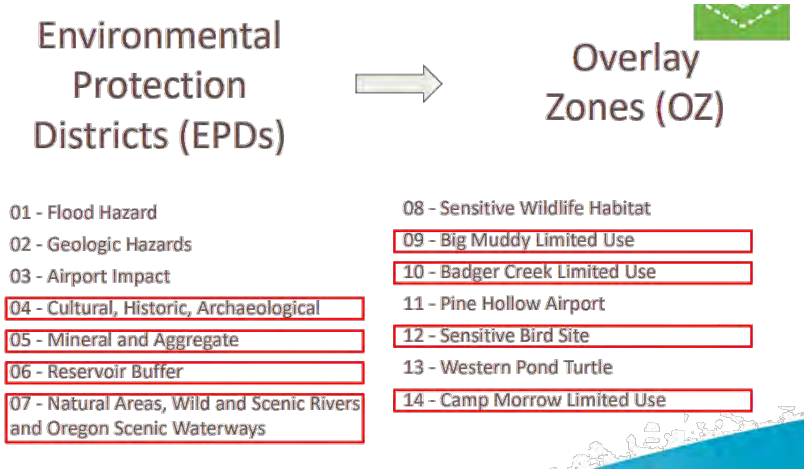
still complying with state law.



Part of the process they followed in making the updates was an in-depth staff assessment and a review of other counties' LUDOs; they then compiled and collated the results. Those updates were then reviewed by legal and taken "on the road" for public input. A summary of the revisions are outlined in this slide:

Assistant Planner Isaak Staats continued the presentation to explain the Proposed Environmental Protection District Updates. He explained that they mean for the icons, located in the upper right corner of each slide in the presentation included in the Board Packet, to be a visual reminder that follows each update across all of our public documents, the communications on the project website Wasco2040.com, and everything regarding the LUDO update on the county website.

Wasco County's current 14 Environmental Protection Districts or Overlay Zones serve to limit uses, protect resources, or protect development from natural hazards. This year's update proposes to make revisions to the 8 overlay zones, outlined in red.



Staff will propose updates to the remaining EPDs in 2022 and 2023.

This year's major change will be to rename the broad umbrella term from Environmental Protection District (EPD) to Overlay Zone (OZ). We think this will help to clarify the primary intent behind these zones. Staff is also proposing a more standardized format to these sections to make them easier to read and understand.

Finally, several specific updates from Wasco County 2040 are being made to several overlay zones.

Mr. Staats reviewed the broad proposed updates:

1. Staff proposes to change the name Environmental Protection District to Overlay Zones to be more transparent and consistent with protecting the resources.
2. Each Overlay Zone has a section number for a purpose statement which identifies what the resource is and why the community protects it.
3. Language clarifies the process that identifies the resources and better indicates all the resources the Overlay Zone protects.
4. Each proposed EPD update also contains a new section called "Relationship to Base Zone" to be consistent with the new framework for overlay zones to clarify the relationship between the base zone and the overlay zone. Essentially saying that the more restrictive of the two Overlay Zones shall be applied.

For the Cultural, Historical, and Archaeological Overlay the following changes are proposed:

1. A new permitted uses section has been added to make explicit what is permitted. The old Section 3.772 is removed, consistent with the new Wasco County Comprehensive Plan policy to eliminate the Historic Landmarks Commission (HLC) and replace with reviews by the Planning Director or Planning Commission. The Planning Commission has been the proxy HLC for the last several decades.
2. New required notice to property owners providing the right to object has been added.

For the Mineral and Aggregate Overlay staff proposes that the Purpose Statement is given a section number and referenced to correlated state law. The following section is renamed to match the new framework for overlay zones.

For the Natural Areas, Wild, and Scenic Rivers and Oregon Scenic Waterways Overlay:

1. The name of the overlay zone is updated to better indicate all the resources it protects.
2. The purpose statement is edited to make the intent of this overlay clearer.

3. A section for applicability is added as part of the new overlay zone framework and to clarify how this overlay zone is applied.
    a. Consistent with Goal 5, the purpose of this overlay district is to protect Natural Areas (OAR660-023-0160), Federal Wild and Scenic Rivers (OAR660-023-0120), and Oregon Scenic Waterways (OAR 660-023-0130). These resources have been identified and inventoried in the Wasco County Comprehensive Plan.
    b. Natural Areas are designated sites listed in the Oregon State Register of Natural Heritage Resources, the Wasco County Comprehensive Plan, and the Wasco County Comprehensive Plan Zoning Map.
    c. The White River is a Federally Designated Wild and Scenic River and is also listed as a protected resource in the Wasco County Comprehensive Plan and Comprehensive Plan Zoning Map.
    d. The John Day and Deschutes Rivers are designated Oregon Scenic Waterways and are also listed as protected resources in the Wasco County Comprehensive Plan and Comprehensive Plan Zoning Map.
4. Oregon Statewide Planning Goal 5 also requires an ESEE (economic, social, environmental, and energy) Analysis. A clarifying statement is added to allow for all uses to be reviewed as conditional uses and none to be prohibited.
5. Based on policies from the Comprehensive Plan, new criteria are added to this section to ensure the Planning Department and property owners know to coordinate with specific partner organizations.

For EPD 12 it is proposed that the exempt uses are added to a distinct section for clarity.

Transparent Proposed Updates are

1. Mineral and Aggregate Overlay
    a. Based on suggestions from ODOT, more flexibility is added in for hours of operation.
2. The date of adoption of the overlay zones is added for accuracy and transparency to Environmental Protection Districts 9, 10, 12, and 14.

Mr. Staats concluded by saying that the remaining overlays will be updated in the future.

Dr. Howsley-Glover noted that former County Surveyor helped with the updates

for roads; we wanted more flexibility for timelines especially for complicated projects such as subdivisions. The current Surveyor Bradley Cross and Public Works Director Arthur Smith also participated in the process. Everyone is excited for the revisions.

Dr. Howsley-Glover said that in addition to staff participation, the updates were reviewed by Land Use Attorney Chris Crean for legal defensibility. Starting in April of last year, staff held virtual public meetings, social media information campaigns and Ask-A-Planner meetings to gather public input. Throughout the updates they referred to state law for surveyor-directed actions as those change more frequently than our LUDO. This will produce a clean and defensible code.

Dr. Howsley Glover went on to say that they are separating road standards to make them clear. If we have competing rules, we follow the more restrictive rule. In public meetings, citizens expressed a need for clear rules and guidance and a way for newcomers to understand those.

Vice-Chair Schwartz asked about the surveyor conflict. Dr. Howsley-Glover explained that a replat property line has been treated the same as a property line which caused problems for surveyors; we have corrected that.

Chair Hege commented that one of the reasons we are doing this is to make it better – if it is complicated for planners it is even more so for the public. We heard this a lot when doing the Comprehensive Plan update. The reality is if we want to be clear, we have to get into the details and try to make it as streamlined as possible. He thanked the Planning staff for all their work.

Chair Hege went on to say that one of the questions he hears most from the public is are we being more restrictive than the State. Dr. Howsley-Glover responded that in these two procedural chapters we are in lock-step with the State with the exception of the phasing of developments in which case we are being more permissive than in the past. Overlay Zones similarly have more opportunities for flexibility.

PUBLIC COMMENT

Sheila Dooley of Mosier said she is in support of the legislation that increases the notification zone.

Chair Hege closed the public comment portion of the hearing.

Chair Hege noted that in our rural areas there is almost nothing more important than being aware of the LUDO if you plan to build on your property. Dr. Howsley-Glover pointed out that it will take us through 2023 to complete the updates.

Chair Hege stated that future sections will be a bit more controversial and we want to hear from the public. He encouraged citizens to sign up for notices if interested in following the process. Commissioner Kramer echoed Chair Hege's comments, saying people should not hesitate to provide input.

Vice-Chair Schwartz asked if updated sections are used before all sections are updated. Dr. Howsley-Glover replied that should the Board approve the updated sections, they would then go to DLCD for review and approval. Once approved by DLCD, we would implement the updated sections immediately.

Chair Hege reminded everyone that both LUDO updates would be coming back for approval on November 3, 2021.

Commissioner Kramer read the title of the Ordinance into the record: Ordinance 21-002 in the Matter of The Wasco County Planning Commission's Request to Approve Proposed Legislative Amendments to Update the Wasco County Land Use and Development Ordinance.

Chair Hege closed the hearing at 10:45 a.m.

Agenda Item – Helion BOPTA Module Agreements

County Clerk Lisa Gambee reviewed the memo included in the Board Packet. She commented that this module will make the work more timely and accurate and allow staff to be more efficient and effective. She pointed out that today is the official start of the BOPTA process. Chair Hege commented that it is a relatively complex process and a very important one.

Vice-Chair Schwartz thanked Ms. Gambee for the very thorough memo.

{{{Commissioner Kramer moved to approve the Personal Services Contract, Software License and Support Contract between Wasco County and Helion Software for the BOPTA System. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Ms. Gambee reported that an election will be held on November 2nd for a Jefferson County School Board Bond. That district serves a portion of southern Wasco County; about 500 ballots will go out.

Ms. Gambee went on to say that the districting maps approved by the State legislature have been challenged – it will be a tight timeline to get the primary ballots ready for the spring of 2022. Staff is practicing so they can move more quickly once we have the final boundaries.

Ms. Gambee said that there have been a lot of legislative changes – our entire reply envelope has to be redone as we will be allowing for postmarks in 2022. There is a new voter attestation process for when the ballot was mailed – we will have to engage in a lot of communication and education for the new processes. Instead of a privacy sleeve, we will print a secrecy weave on the envelope. There is not a lot of financial support for some of the changes we will be implementing for 18,500 voters.

Chair Hege asked if there is new staff in the Clerk's Office. Ms. Gambee replied affirmatively, saying that Sean Bailey transferred to the Planning Department and was replaced by Lauren Little who is learning quickly. She noted that there is only a staff of four, including herself. Chair Hege commented that they do a great job and provide a welcoming atmosphere.

Agenda Item – PowderPure Enterprise Zone Modification

Administrative Services Director Matthew Klebes reviewed the memo included in the Board Packet. He explained that shortly after the agreement was approved, PowderPure had expanded and increased production going from 78 to 104 employees. Due to complications that have arisen as result of the pandemic, their staffing has dropped to 67 which is below the required 86 outlined in their Enterprise Zone agreement. The State legislature has passed provisions to provide exemptions for companies impacted by the pandemic. This exemption would last for 1 year with the possibility of a second adjustment in 2022. We will continue to communicate with PowderPure to see if that will be needed.

William Parkki, Engineering Manager for PowderPure, said that the 5-year agreement has a minimum employment level. They have not been able to maintain that as plant utilization is running at 28% capacity with ½ of the plant shut down. Social distancing has diminished their ability to use all production lines. He reviewed the slide presentation included in the Board Packet. He pointed out that

although they have not been able to fully staff and have had to restructure due to an employee shortage, they are paying a livable wage and starting wages have increased. The average salary is $44,000 per year.

Commissioner Kramer said that he believes this is a valid request and he appreciates the efforts to keep people employed.

Vice-Chair Schwartz asked about the PowderPure product. Mr. Parkki explained that they create shelf stable powdered fruits and vegetable that have a shelf life of 15 years or more. The products are often used in supplements, food and beverages.

Chair Hege said that he has toured the plant – it is an interesting process. Mr. Klebes complemented the PowderPure team on their communication and efficiency.

{{{Commissioner Kramer moved to approve Resolution 21-009 Adjusting minimum employment level requirement pursuant to sections 2 and 3 of HB 2343 (2121) for PowderPure. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Commission Call

Vice-Chair Schwartz reported that she followed up on the Taylor Lake complaint. She met with ODFW and the citizen – they will work with the Army Corps of Engineers to address the area of concern. There may be a citizen group forming to work on that with ODFW's Jeremy Thompson.

Vice-Chair Schwartz reported that the Gilliam County Board has completed a feasibility study and may decide to break off from the North Central Public Health District as early as November. They are discussing that at their Board meeting today; NCPHD Executive Director Shellie Campbell is attending along with a representative of the Health Authority to assist with questions on the timing and the soundness of feasibility study.

Chair Hege commented that there are no other regional health districts so they will not be joining another. He asked how they will manage those services. Vice-Chair Schwartz replied that they would have their own department in Gilliam County and perhaps contract with Umatilla County for some services. She said she thinks it will be challenging. She stated that the NCPHD Board wants to support

Gilliam County's work and also advocate for citizens.

Chair Hege asked about the fiscal impact to NCPHD considering the relative size of Gilliam County. Vice-Chair Schwartz replied that losing funding is always a concern.

Agenda Item – Executive Session

At 11:16 a.m. Chair Hege opened an Executive Session pursuant to ORS 192.660(2)(n) Security Programs. He explained the process and admonished members of the media that nothing in Executive Session may be reported outside of the previously announced purpose of the session.

At 11:58 Chair Hege resumed the Regular Session and called for a recess.

Agenda Item – Strategic Investment Program Agreement

Chair Hege observed that the Board and City of the Dalles have held numerous public meetings introducing and explaining this process and forthcoming agreement.

Mr. Stone expressed his appreciation for the negotiating team that has worked diligently for many months to arrive at this agreement today. Their work, dedication, focus and professionalism have been invaluable. The team is composed of himself, Mayor Rich Mays, City Manager Julie Krueger, Commissioner Steve Kramer, Administrative Services Director and Enterprise Zone Manager Matthew Klebes, County Assessor Jill Amery and County Counsel Kristen Campbell.

Mr. Klebes reviewed the memo included in the Board Packet saying this is the culmination of many months of work and due diligence. This agreement demonstrates the shared interests of Google, City of The Dalles and Wasco County for development of privately purchased and owned site where previously there existed an aluminum plant. This is a separate agreement from anything else Google will need to secure for moving forward - such as land use permits, water agreements, etc. In February and March of this year, the County and the City held 4 public meetings to solicit input. Much of the work over the past few months was translating the bullet points of the publicly released terms sheet into legal language. It took some time to get stakeholders in sync to move this forward. The only substantive difference from the previously published terms is a change from a 20 year window to a 25 year window to complete 2 projects. This does not impact the 15 year abatement period for each project.

This agreement covers up to 2 distinct projects each with its own max 15 year abatement. There is a one-time $3 million payment for each to City and County. There is a State prescribed tax formula and the State also requires a community service fee which is capped at $2.5 million. In addition there is a guaranteed annual payment (GAP) which is based on the value of the project and is outlined in the memo. Combined, the three payments will not be less than $3 million in a given year. Also, as part of the agreement, Google will transfer 35 acres of land to the County and allow right of first refusal to purchase the developed project should they cease operations.

Mr. Klebes said that the resolution included in the Board Packet affirms approval of the agreement; a similar resolution will be considered by the City on October 25th. Should both be approved, the next step will be to submit a letter to Business Oregon; they will have 21 days to consider the application.

In addition, if the respective resolutions pass, there will be continued collaboration on the distribution of the community service fee between City, County and 75% of taxing districts. That agreement must be reached in a certain amount of time or Business Oregon will make the determination. It has been suggested that it be distributed based on tax levy for each entity. Staff will work with Google to transfer the 35 acres should this agreement be approved.

Mayor Mays echoed Mr. Stone's comments, saying that it was an honor to serve with the negotiating team. He said that this agreement compares favorably with other agreements around the state.

Vice-Chair Schwartz noted that the community service fee is of great interest. She asked what 75% of the taxing districts mean. Mr. Klebes responded that it is not 75% of the total number of districts; it is 75% of the districts' taxing authority.

Vice-Chair Schwartz thanked the team for their hard work and thanked City of The Dalles Public Works Department Director Dave Anderson for the meeting where he explained the water issues for the public. It was very helpful and provided a better understanding of an issue that has been of concern to citizens.

Chair Hege observed that what we have been seeing with Google projects is that they value all the projects at $600 million. We really need to know the value of the investment as the payment is based on that. He asked who and how the value will be determined. County Assessor Jill Amery explained that it is the same method

as for all others; the properties are appraised by the State. Construction cost is generally the initial value and then it depreciates.

Chair Hege asked if those costs are reported by the company. Ms. Amery answered that she has been working with the Department of Revenue and Google for years and believes we are getting adequate access to be able to verify data. They report their costs and that is typical of every industrial project. While $600 million is the number they quote, the information that is on the tax roll for the property, buildings and equipment are public information available on our website – you can watch it from year to year. The State has a good team with a lot of experience and we have better access and a more collaborative relationship with Google.

PUBLIC COMMENT

David Jacobs, Mid-Columbia Fire & Rescue District Board President, asked why they did not factor in Measure 5 compression in the table. Ms. Amery replied that the information was just an example of how it might play out and not intended as a literal prediction. Compression can impact the numbers for this just as it can for any other project. This was just an example of how the algorithm would work.

Vice-Chair Schwartz commented that we have been talking about this for a very long time. She said she has met with most of the people at the meeting today and had been able to get a lot of questions answered.

Chair Hege noted that even if the County and City approve, Google will have to decide to move forward with the project. He said he believes we will see it happen, but it may not be tomorrow – they make investments on their own timeline. We hope to see it soon.

{{{Commissioner Kramer moved to approve Resolution 21-010 in the matter of Design LLC/Google LLC Strategic Investment Program Agreement. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve the 2021 Oregon Strategic Investment Program Agreement between the City of The Dalles, Wasco County and Design, LLC; Moraine Industries, LLC; and Google, LLC. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Chair Hege adjourned the session at 2:35 p.m.

Summary of Actions

MOTIONS

- **To approve IGA 14693 between Wasco County and the State of Oregon for Juvenile Crime Prevention Basic Services.**
- **To approve the Consent Agenda: 9.29.2021 Work Session Minutes; 10.6.2021 Regular Session Minutes; .911 Service Agreement Renewal.**
- **To approve the Personal Services Contract, Software License and Support Contract between Wasco County and Helion Software for the BOPTA System.**
- **To approve Resolution 21-009 Adjusting minimum employment level requirement pursuant to sections 2 and 3 of HB 2343 (2121) for PowderPure.**
- **To approve Resolution 21-010 in the matter of Design LLC/Google LLC Strategic Investment Program Agreement.**
- **To approve the 2021 Oregon Strategic Investment Program Agreement between the City of The Dalles, Wasco County and Design, LLC; Moraine Industries, LLC; and Google, LLC.**

Wasco County
Board of Commissioners

Scott C. Hege, Commission Chair

Kathleen B. Schwartz, Vice-Chair

Steven D. Kramer, County Commissioner

DISCUSSION LIST

- VACCINATION UPDATES – Dr. Mimi McDonell
- OIB RECOMMENDATION – Kathy Clark
- JCP AGREEMENT – Molly Rogers

DISCUSSION ITEM

Vaccination Update

NO DOCUMENTS HAVE BEEN SUBMITTED FOR THIS ITEM – RETURN TO AGENDA

DISCUSSION ITEM

OIB Recommendation

STAFF MEMO

RECOMMENDATION LETTER

MEMORANDUM

SUBJECT: Oregon Investment Board Recommendation

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY CLARK

DATE: OCTOBER 12, 2021

BACKGROUND INFORMATION:

In 1986, the Columbia River Gorge National Scenic Area Act established a bi-state, six-county region shared by the states of Oregon and Washington. In conjunction with this Act, Congress earmarked funds for the purpose of making economic development loans and grants. The Columbia River Gorge Oregon Investment Board (OIB) is responsible for the administration of these funds benefiting the Oregon counties lying in the Columbia River Gorge National Scenic Area. The OIB is staffed by the Mid-Columbia Economic Development District and governed by a seven-member Board of representatives.

The Columbia River Gorge Oregon Investment Board (OIB) provides economic development loans and grants to projects benefiting Multnomah, Hood River, and Wasco, the Oregon counties lying in the Columbia River Gorge National Scenic Area. The Columbia River Gorge Oregon Investment Board is a seven member volunteer board appointed by the Governor of Oregon. The board is charged with policy direction, funding criteria and funding decisions. There are two members each appointed from Multnomah, Hood River and Wasco counties and one at-large member. The Board also works with their partners in Washington—Washington Investment Board—through the Bi-State Advisory Council.

Jorge Barragan, currently serving as Secretary/Treasurer, is a valued and respected member of the OIB Board and has agreed to accept reappointment to the Board.

BOARD OF COUNTY COMMISSIONERS

511 Washington St, Ste. 101 • The Dalles, OR 97058
p: [541] 506-2520 • **f:** [541] 506-2551 • www.co.wasco.or.us

Pioneering pathways to prosperity.

Executive Appointments
Office of the Governor
900 Court Street NE
Salem, OR 97301-4075

October 20, 2019

RE: Wasco County OIB Representative Appointment

Jorge Barragan's appointment to the Oregon Investment Board will expire in December, 2021. Mr. Barragan has done an exemplary job representing Wasco County. We continue to support this appointment and would ask that Mr. Barragan be reappointed to another term on the Columbia River Gorge Oregon Investment Board.

Respectfully,
Wasco County Board of Commissioners

_____
Scott C. Hege, Chair

_____
Kathleen B. Schwartz, Vice-Chair

_____
Steven D. Kramer, County Commissioner

DISCUSSION ITEM

Juvenile Crime Prevention IGA

STAFF MEMO

IGA 14693 FOR JUVENILE CRIME PREVENTION BASIC SERVICES

MOTION LANGUAGE

YOUTH SERVICES

202 East Fifth Street • The Dalles, OR 97058
p: [541] 506-2660 • f: [541] 506-2661 • www.co.wasco.or.us

Pioneering pathways to prosperity.

Date: October 7, 2021

To: Wasco County Board of County Commissioners

From: Molly Rogers, Director
Wasco County Youth Services

Re: Oregon Youth Authority Juvenile Crime Prevention Basic Services - #14693 (JCP Basic Services)

The included grant agreement is an ongoing agreement between Wasco County and the Oregon Youth Authority for the purposes funding basic services within the juvenile justice system. This funding is based on a statewide formula and is a non-competitive grant process allocating funding on population and rates of youth referrals. The total amount of the biennial allocation for Wasco County is $74,632.00, which is a 3% increase from the previous biennium.

The JCP Basic funds are allocated within the NORCOR fund to cover costs the juvenile detention. The JCP plan has been submitted to the Oregon Youth Authority and approved.

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio tape, oral presentation, and computer disk. To request an alternate format call the State of Oregon, Oregon Youth Authority, Procurement Unit at (503) 373-7371.

STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT
JUVENILE CRIME PREVENTION BASIC SERVICES

Agreement #14693

This Juvenile Crime Prevention Basic Services Intergovernmental Agreement (the "Agreement") is between the State of Oregon acting by and through its **Oregon Youth Authority** ("**OYA**" or "**Agency**") and **Wasco County**, a political subdivision of the State of Oregon ("**County**").

WHEREAS, pursuant to ORS 190.110, ORS 420.017 and ORS 420A.010(6), the parties have authority to enter into intergovernmental cooperative agreements, and therefore agree to work together, focusing on the Oregon Benchmark – Preventing and Reducing Juvenile Crime, and to improve collaborative efforts.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Effective Date and Duration. This Agreement shall become effective as of **July 1, 2021**. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate on **June 30, 2023**.

2. Consideration. The maximum, not-to-exceed compensation payable to County under this Agreement, which includes any allowable expenses, is **$74,632.00**. Payments shall be in accordance with the requirements in Exhibit E.

3. Agreement Documents, Order of Precedence. This Agreement consists of the following documents, which are listed in descending order of precedence. In the event of a conflict between two or more of these documents, the language in the document with the highest precedence shall control.

This Agreement without Exhibits

Exhibit A	Definitions
Exhibit B	Terms and Conditions
Exhibit C	Program Requirements
Exhibit D	Provider Requirements
Exhibit E	Funding
Exhibit F	Service Tracking in JJIS
Exhibit G	Service Plan

All exhibits by this reference are hereby made part of this Agreement. Exhibits A-F are attached; Exhibit G is not attached but will be on file with County and OYA.

The parties, by signature of their authorized representative, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the dates set forth below their respective signatures.

COUNTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT COUNTY HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

I hereby certify and affirm I am eligible and authorized to sign this agreement on behalf of the County.

By:_____ Date:_____

Title:_____

Mailing Address:_____

_____

Facsimile:_____

AGENCY: STATE OF OREGON, acting by and through its Oregon Youth Authority

By:_____ Date:_____
Amber Forster, Designated Procurement Officer

Mailing Address: 530 Center St. NE, Suite 500
Salem, Oregon 97301-3740
Facsimile: (503) 373-7921

Approved as to Legal Sufficiency by the **Attorney General's Office:** (Required if total amount owing under the Agreement, including amendments, exceeds or is likely to exceed $150,000.00)

By: Exempt per OAR 137-045-0050 Date:_____
Susan Amesbury, Assistant Attorney General

Reviewed and Approved by **OYA Agreement Administrator:**

By: Template approved 06032021 Date: _____
Laura Ward

Reviewed by **OYA Procurement Specialist:**

By:_____ Date:_____
Susanna Ramus

JUVENILE CRIME PREVENTION BASIC SERVICES
INTERGOVERNMENTAL AGREEMENT
EXHIBIT A
DEFINITIONS

As used in this Agreement, the following words and phrases shall have the indicated meanings.

1. **"Administrative Costs"** means Allowable Costs incurred by County or a Provider in administering implementation of the Service Plan, as determined in accordance with 2 CFR Part 225 and 2 CFR Part 230 (Office of Management and Budget Circulars A-87 and A-122, respectively) as revised from time to time.

2. **"Agreement"** means this Intergovernmental Agreement between OYA and County.

3. **"Allowable Costs"** means those costs that are reasonable and necessary for delivery of Services in implementation of the Service Plan as determined in accordance with 2 CFR Part 225 and 2 CFR Part 230 (Office of Management and Budget Circulars A-87 and A-122, respectively) as revised from time to time.

4. **"Claim"** has the meaning set forth in Section 15 of Exhibit B.

5. **"Client"** means any individual who receives a Service.

6. **"Close Custody Facility**" for purposes of this Agreement means OYA Youth Correctional Facilities and OYA Transition Programs.

7. **"Community Programs"** means those services and sanctions operated or administered by OYA and provided to delinquent youth outside the Close Custody Facilities. These include, but are not limited to, residential youth programs, certified family resources, individualized services, and other programs developed in accordance with the Service Plan.

8. **"County"** has the meaning set forth in the first paragraph of this Agreement.

9. **"Diversion Services"** means services outlined in the Service Plan as defined under ORS 420.017 and 420.019 and OAR 416-410-0030. Diversion Services are community based and operated to divert commitment of youth from OYA Close Custody Facilities. Funds for Diversion are paid under a separate Agreement between OYA and the Central and Eastern Oregon Juvenile Justice Consortium.

10. **"Evaluation Costs"** means Allowable Costs incurred by a County or a Provider and associated with completion of administration of risk screen, interim review, and JJIS data fields.

11. **"JCP Basic Services"** or **"Basic Services"** means services outlined in the Service Plan and provided under this Agreement for detention and other juvenile department services including shelter care, treatment services, graduated sanctions and aftercare for youth offenders.

12. **"JCP Basic Services Funds"** means funds provided under this Agreement for JCP Basic Services. JCP Basic Service Funds are part of the budget of the Oregon Youth Authority.

13. **"JJIS"** is the Juvenile Justice Information System administered by OYA under ORS 420A.223.

14. **"OYA"** means the Oregon Youth Authority.

15. **"Provider"** has the meaning set forth in Section 5 of Exhibit B.

16. **"Service"** means any service or group of related services delivered as part of Service Plan implementation.

17. **"Service Plan"** means the County's plan for 2021-2023 JCP Basic Services approved by OYA and developed in coordination with the Local Coordinated Comprehensive Plan, the provisions of which are incorporated herein by this reference. The Service Plan includes, by funding source, high level outcomes, services to be provided, and a budgeted amount for each service. Until the Service Plan for 2021-2023 has been developed and approved as described above, the term "Service Plan" has the meaning set forth in Exhibit C, Section 3.

18. **"Supplanting"** means replacing funding County would have otherwise provided to the County Juvenile Department to serve the target populations in this Agreement.

19. "**Target Population for Basic Services"** means youths ages 10 to 17 years of age who have been referred to a County Juvenile Department and who can benefit from services of the County Juvenile Department, including but not limited to, detention, shelter care, treatment services, graduated sanctions, and aftercare, and who have more than one of the following risk factors:

a. Antisocial behavior;
b. Poor family functioning or poor family support;
c. Failure in school;
d. Substance abuse problems; or
e. Negative peer association.

20. **"Youth offender"** means "adjudicated youth" as that term is used in SB 436 (2021) in the event that SB 436 (2021) becomes law. This definition is effective on the date on which SB 436 is effective.

JUVENILE CRIME PREVENTION BASIC SERVICES
INTERGOVERNMENTAL AGREEMENT
EXHIBIT B
TERMS AND CONDITIONS

1. Payment and Recovery of Funds.

a. Payment Generally. Subject to the conditions precedent set forth below, OYA shall pay funds to the County as set forth in Exhibit E for performance of Services under this Agreement on an expense reimbursement basis.

b. Payment Requests and Notices. County shall send all payment requests and notices, unless otherwise specified in this Agreement, to OYA.

c. Conditions Precedent to Payment. OYA's obligation to pay funds to County under this Agreement is subject to satisfaction, with respect to each payment, of each of the following conditions precedent:

(i) OYA has received sufficient funding, appropriations and other expenditure authorizations to allow OYA, in the exercise of its reasonable administrative discretion, to make the payment.

(ii) No default as described in Section 7 of this Exhibit has occurred.

(iii) County's representations and warranties set forth in Section 2 of this Exhibit are true and correct on the date of payment with the same effect as though made on the date of payment.

(iv) OYA has received a timely written quarterly expenditure report/payment request from County on a form designated by OYA. County shall provide copies of expense documentation (such as receipts) with the quarterly expenditure report/payment request, upon the request of OYA.

(v) OYA has received from County and approved the County's Service Plan for the 2021-2023 biennium and OYA has received from County any Service Plan amendments, as applicable, as described in Exhibit C, Section 5 on or prior to the date of the payment request.

(vi) The expenditure report/payment request is received no later than 60 days after the termination or expiration of this Agreement.

d. Recovery of Funds. If payments to County by OYA under this Agreement are made in error or are found by OYA to be excessive under the terms of this Agreement, OYA, after giving written notification to the County, shall enter into nonbinding discussions with County within 15 days of the written notification. If, after discussions, the parties agree that payments were made in error or found to be excessive, OYA may withhold payments due to County under this Agreement in such amounts, and over such periods of time, as are deemed necessary by OYA to recover the amount of the overpayment. If, after discussions, the parties do not agree that payments were made in error or found to be excessive, the parties may agree to consider further appropriate dispute resolution processes, as provided in Section 29 of this Exhibit B. This Section 1.d. shall survive expiration or earlier termination of this Agreement and be fully enforceable thereafter.

(i) Subject to the debt limitations in Article XI, Section 10 of the Oregon Constitution, OYA's right to recover overpayments from County under this Agreement is not subject to or conditioned on County's recovery of any money from any other entity.

(ii) If the exercise of the OYA's right to offset under this provision requires the County to complete a re-budgeting process, nothing in this provision shall be construed to prevent the County from fully

complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.

(iii) Nothing in this provision shall be construed as a requirement or agreement by the County to negotiate and execute any future contract with the OYA.

(iv) Nothing in this Section 1.d shall require County or OYA to act in violation of state or federal constitutions, statutes, regulations or rules.

(v) Nothing in this Section 1.d shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

2. Representations and Warranties.

a. County represents and warrants as follows:

(i). Organization and Authority. County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

(ii). Due Authorization. The making and performance by County of this Agreement (1) has been duly authorized by all necessary action by County and (2) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (3) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any other governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

(iii). Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

(iv). Accuracy of Information. The statements made in and the information provided in connection with any applications, requests or submissions to OYA hereunder or in connection with this Agreement are true and accurate in all materials respects.

(v). Services. The delivery of each Service will comply with the terms and conditions of this Agreement and meet the standards for such Service as set forth herein, including but not limited to, any terms, conditions, standards and requirements set forth in the Service Plan.

b. OYA represents and warrants as follows:

(i). Organization and Authority. OYA has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

(ii). Due Authorization. The making and performance by OYA of this Agreement (1) has been duly authorized by all necessary action by OYA and (2) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (3) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which OYA is a party or by which OYA may be bound or affected. No

authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by OYA of this Agreement, other than approval by the Department of Justice if required by law.

(iii). Binding Obligation. This Agreement has been duly executed and delivered by OYA and constitutes a legal, valid and binding obligation of OYA, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

(iv). Accuracy of Information. The statements made in and the information provided in connection with any applications, requests or submissions to County hereunder or in connection with this Agreement are true and accurate in all materials respects.

c. The warranties set forth above are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

3. Expenditure of Funds. County may expend the funds provided to County under this Agreement solely on Allowable Costs necessarily incurred in implementation of the Service Plan during the term of this Agreement, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement):

a. No more than 10% of the aggregate funds paid under this Agreement to County may be expended on Administrative Costs and Evaluation Costs. These limits apply in total to all County government organizational units, Providers and subcontractors. This applies to all funds paid pursuant to this Agreement. County shall record Administrative Costs on forms provided by OYA.

b. County may expend Basic Services funds solely on Basic Services.

c. County may not expend and shall prohibit all Providers from expending on the delivery of any Service, any funds provided to County under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of that Service.

d. County may not use funds provided to County under this Agreement to reimburse any person or entity for expenditures made, or to pay for goods or services provided, prior to July 1, 2021 or after the termination date of this Agreement.

e. County shall not use the funds provided to County under this Agreement to supplant money otherwise provided to the County Juvenile Department for services to delinquent youth. County reductions to local funding do not constitute supplanting if the County reductions to local funding are taken proportionately across all County departments.

4. Expenditure Reports. County shall submit to OYA, on forms designated by OYA, a quarterly written detail expenditure report on the County's actual expenditures during the prior calendar quarter that are consistent with the Service Plan. County shall provide copies of expense documentation (such as receipts) with the quarterly expenditure report/payment request, upon the request of OYA. County shall retain copies of the expense documentation in accordance with Section 6 of this Exhibit B.

5. Provider Contracts. Except as otherwise expressly provided in the Service Plan, County may contract with a third person or entity (a "Provider") for delivery of a particular Service or portion thereof (a "Provider Contract") County may permit a Provider to subcontract with a third person or entity for delivery of a particular Service or portion thereof and such subcontractors shall also be considered Providers for purposes of this Agreement and the subcontracts shall be considered Provider Contracts for purposes of this Agreement. County shall not permit any person or entity to be a Provider unless the person or entity holds all licenses,

certificates, authorizations and other approvals required by applicable law to deliver the Service. The Provider Contract must be in writing and contain all provisions of this Agreement necessary for County to comply with its obligations under this Agreement and applicable to the Provider's performance under the Provider Contract, including but not limited to, all provisions of this Agreement that expressly require County to require Provider's compliance with respect thereto. County shall maintain an originally executed copy of each Provider Contract at its office and shall furnish a copy of any Provider Contract to OYA upon request.

6. Records Maintenance, Access and Confidentiality.

a. County shall maintain, and require all Providers to maintain, all fiscal records relating to this Agreement and any Provider Contract, as applicable, in accordance with generally accepted accounting principles. In addition, County shall maintain, and require all Providers to maintain, any other records (including but not limited to statistical records) pertinent to this Agreement in such a manner as to clearly document County's and each Provider's performance. County acknowledges and agrees that OYA and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal and statistical records and other books, documents, papers, plans and writings of County that are pertinent to this Agreement to perform examinations, audits and program reviews and make excerpts and transcripts. A copy of any audit or report will be made available to County. County shall retain and keep accessible all such fiscal and statistical records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

b. Unless otherwise required by law, the use or disclosure by the County and its employees and agents of any information concerning a recipient of Services, for any purpose not directly connected with the administration of the County's responsibilities with respect to such Services, is prohibited, except on written consent of the person or persons authorized by law to consent to such use or disclosure. The County shall prohibit the use or disclosure by the County's Providers and their employees and agents of any information concerning a recipient of Services provided under the applicable Provider Contracts, for any purpose not directly connected with the administration of the County's or Provider's responsibilities with respect to such Services, except on written consent of the person or persons authorized by law to consent to such use or disclosure. All records and files shall be appropriately secured to prevent access by unauthorized persons. The County shall, and shall require its Providers to, comply with all appropriate federal and state laws, rules and regulations regarding confidentiality of Client records.

c. OYA shall include a provision in its contracts with contractors who utilize information related to the Services provided under this Agreement for research purposes, providing that contractor and its subcontractors under that contract shall not release confidential information on individual youth for purposes unrelated to the administration of the contract or required by applicable law, and a provision that contractor or its subcontractors under that contract shall appropriately secure all records and files to prevent access by unauthorized persons.

d. County shall maintain and require all Providers to maintain a Client record for each youth that receives a Service.

7. County Default. County shall be in default under this Agreement upon the occurrence of any of the following events:

a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein, including but not limited to, County's failure to comply with the Service Plan;

b. Any representation, warranty or statement made by County herein or in any documents or reports made by County in connection herewith that are reasonably relied upon by OYA to measure the delivery

of Services, the expenditure of funds or the performance by County is untrue in any material respect when made;

c. County (i) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (viii) takes any action for the purpose of effecting any of the foregoing; or

d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (iii) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

8. OYA Default. OYA shall be in default under this Agreement upon the occurrence of any of the following events:

a. OYA fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein: or

b. Any representation, warranty or statement made by OYA herein or in any documents or reports made by OYA in connection herewith that are reasonably relied upon by County to measure performance by OYA is untrue in any material respect when made.

9. Termination.

a. County Termination. County may terminate this Agreement in its entirety:

(i) For its convenience, upon 90 days advance written notice to OYA.

(ii) Upon 30 days advance written notice to OYA, if OYA is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice.

(iii) Upon 45 days advance written notice to OYA, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion.

(iv) Immediately upon written notice to OYA, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. OYA Termination. OYA may terminate this Agreement in its entirety:

(i) For its convenience, upon 90 days advance written notice to County.

(ii) Upon 45 days advance written notice to County, if OYA does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient, in the exercise of OYA's reasonable administrative discretion, to meet the payment obligations of OYA under this Agreement.

(iii) Immediately upon written notice to County if Oregon or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that the OYA does not have the authority to meet its obligations under this Agreement or no longer has the authority to provide the funds from the funding source it had planned to use.

(iv) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as OYA may specify in the notice.

(v) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a Provider to deliver a Service is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a Provider no longer meets requirements to deliver the Service.

(vi) Immediately upon written notice to County, if OYA determines that County or any of its Providers have or may have endangered, or are or may be endangering the health or safety of a Client or others.

10. Effect of Termination

a. Entire Agreement. Upon termination of this Agreement in its entirety, OYA shall have no further obligation to pay funds to County under this Agreement, whether or not OYA has paid to County all funds described in Exhibit E. Notwithstanding the foregoing, OYA shall make payments to reimburse County for services provided prior to the effective date of termination where such services are authorized pursuant to this Agreement and are not disputed by OYA and where the invoice was submitted within 60 days of the termination of the Agreement.

b. Survival. Notwithstanding subsection (a) above, exercise of the termination rights in section 9 of this Exhibit B or expiration of this Agreement in accordance with its terms, shall not affect County's or OYA's obligations under this Agreement or OYA's or the County's right to enforce this Agreement against County or OYA in accordance with its terms, with respect to funds actually received by County under this Agreement, or with respect to Services actually delivered. Specifically, but without limiting the generality of the preceding sentence, exercise of a termination right set forth in Section 9 of this Exhibit B or expiration of this Agreement shall not affect either party's representations and warranties, reporting obligations, record-keeping and access obligations, confidentiality obligations, contribution obligations, indemnity obligations, governing law and consent to jurisdiction, assignments and successors in interest, Provider Contract obligations, Provider insurance obligations, ownership of intellectual property obligations, OYA's spending authority, the restrictions and limitations on County's expenditure of funds actually received by County hereunder, or OYA's right to recover from County, in accordance with the terms of this Agreement, any funds paid to County that are identified by OYA as an overpayment. If a termination right set forth in Section 9 of this Exhibit B is exercised, both parties shall make reasonable good faith efforts to minimize unnecessary disruption or other problems associated with the termination.

11. Unilateral Modification. If the Oregon Legislative Assembly, Legislative Emergency Board or Oregon Department of Administrative Services increases or decreases the amount of money appropriated or allotted for implementation of the Services under this Agreement, OYA may, by written notice to County, unilaterally increase or decrease the amount of the funding in this Agreement, in proportion to the increase or decrease in the appropriation or allotment, provided that OYA increases or decreases, in the same proportion, the funds awarded to all other counties under similar agreements, with the exception of JCP Prevention Funds awarded to minimum grant counties. In such circumstance, if requested by either party, the parties shall execute an amendment to this Agreement reflecting an increase or decrease in the funding implemented under this Section. Nothing in this Section shall limit or restrict OYA's rights under this Agreement to suspend payment of funds or to terminate this Agreement (or portion thereof as provided in Section 9 of this Exhibit B) as a result of a reduction in appropriations or allotments. This Section 11 is not applicable to any funding change that requires a different or new service to be provided. In response to a funding change pursuant to this Section 11 of the Agreement, County shall submit a new Service Plan to OYA for approval in a format and timeline prescribed by OYA. Such Service Plan shall be effective no sooner than the effective date of the funding change.

12. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, electronic mail, or mailing the same, postage prepaid to County or OYA at the address or number set forth below, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. Any communication or notice delivered by electronic mail shall be effective on the day of notification of delivery to the recipient's e-mail system. Any communication or notice given by personal delivery shall be effective when actually delivered.

To OYA: Peter Sprengelmeyer
Oregon Youth Authority
530 Center St. NE, Suite 500
Salem, Oregon 97301-3765
Voice: (503) 373-7531
Facsimile: (503) 373-7921
E-mail: Peter.Sprengelmeyer@oya.state.or.us

To County: Molly Rodgers
Wasco County
202 E. 5th St
The Dalles, Oregon 97058
Voice: (541)506-2660x2
Facsimile: (541)506-2661
E-Mail: mollyr@co.wasco.or.us

The supervising representatives of the parties for purposes of this Agreement are indicated above. Should a change in Agency's or County's representative become necessary, Agency or County will notify the other party of such a change in writing. Such change shall be effective without the necessity of executing a formal amendment to this Agreement.

13. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

14. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

15. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (and/or any other agency or department of the State of Oregon) and County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a Circuit Court in the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. COUNTY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

16. Compliance with Applicable Law. Both parties shall comply and County shall require all Providers to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, the parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act portion of the American Recovery and Reinvestment Act of 2009 (ARRA), including the Privacy and Security Rules found at 45 CFR Parts 160 and 164, as the law and its implementing regulations may be updated from time to time; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; (x) all state laws requiring reporting of Client abuse and (xi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County, that employ subject workers who provide Services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. County shall require that all Providers comply with these requirements and obtain any insurance required elsewhere in this Agreement.

17. Assignments, Successors in Interest.

a. County shall not assign, delegate, or transfer its interest in this Agreement without prior written approval of OYA. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the OYA may deem necessary. No approval by the OYA of any assignment or transfer of interest shall be deemed to create any obligation of the OYA in addition to those set forth in the Agreement.

b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

18. No Third Party Beneficiaries. OYA and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that OYA and County's performance under this Agreement is solely for the benefit of OYA and the County to assist and enable OYA and the County to accomplish their respective missions. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater

than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

19. Integration and Waiver. This Agreement, including all of its Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. The remedies provided herein are cumulative and not exclusive of any remedies provided by law. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.

20. Amendment. No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by all the parties except as provided in Section 11 of this Exhibit B and Sections 3.a and 5.d of Exhibit C, and in any event no such amendment, modification, or change of terms shall be effective until all approvals required by law have been obtained from the Department of Justice. Such amendment, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

21. Headings. The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

22. Construction. The provisions in this Agreement are the product of extensive negotiations between the State of Oregon and representatives of county governments. The provisions of this Agreement are to be interpreted and their legal effects determined as a whole. An arbitrator or court interpreting this Agreement shall give a reasonable, lawful and effective meaning to the Agreement to the extent possible, consistent with the public interest.

23. Contribution

a. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligations under this Section with respect to the Third Party Claim.

b. With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

c. With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

24. Limitation of Liabilities. EXCEPT FOR LIABILITY OF DAMAGES ARISING OUT OF OR RELATED TO SECTION 23 OF THIS EXHIBIT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

25. Ownership of Intellectual Property.

a. Except as otherwise expressly provided herein, or as otherwise provided by state or federal law, OYA will not own the right, title and interest in any intellectual property created or delivered by County or a Provider in connection with the Services. With respect to that portion of the intellectual property that the County owns, County grants to OYA a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (i) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (ii) authorize third parties to exercise the rights set forth in Section 25.a(i) on the OYA's behalf, and (iii) sublicense to third parties the rights set forth in Section 25a(i).

b. If state or federal law requires that OYA or County grant to the United States a license to any intellectual property or if state or federal law requires that OYA or the United States own the intellectual property, then County shall execute such further documents and instruments as OYA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OYA. To the extent that OYA becomes the owner of any intellectual property created or delivered by County in connection with the Services, the OYA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.

c. County shall include in its Provider Contracts terms and conditions necessary to require that Providers execute such further documents and instruments as OYA may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law or otherwise requested by OYA.

26. Force Majeure. Neither OYA nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes or war which is beyond the reasonable control of OYA or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

27. HIPAA Compliance. To the extent applicable, County shall deliver Services in compliance with the Health Insurance Portability and Accountability Act as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act portion of the American Recovery and Reinvestment Act of 2009 (ARRA), and the federal regulations implementing the Act, including the Privacy and Security Rules found at 45

CFR Parts 160 and 164, as the law and its implementing regulations may be updated from time to time (collectively referred to as HIPAA). County shall comply and require all Providers to comply with the following:

a. Privacy and Security Of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between County and OYA for purposes directly related to the provision of Services. However, County shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate any applicable privacy rules.

b. Consultation and Testing. If County reasonably believes that County's delivery of Services under this Agreement may result in a violation of HIPAA requirements, County shall promptly consult with OYA.

28. Criminal History Checks. The County shall ensure that any person having direct contact with OYA youth offenders under this Agreement has passed a criminal history check and meets OYA's criminal history records check standards as set forth in OAR 416-800-0000 to 416-800-0095 before the person provides unsupervised services under this Agreement.

Any person that has not yet passed a criminal history check must be supervised by a person who has passed such a test and does meet such standards when having direct contact with OYA youth offenders under this Agreement. Any person that has failed a criminal history check as set forth in OAR 416-800-0000 to 416-800-0095 is prohibited from providing services under this Agreement to OYA youth offenders.

29. Alternative Dispute Resolution. The parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

JUVENILE CRIME PREVENTION BASIC SERVICES
INTERGOVERNMENTAL AGREEMENT
EXHIBIT C
PROGRAM REQUIREMENTS

1. Outcomes. County shall develop and implement its Service Plan for Juvenile Crime Prevention Basic Services with the goal of achieving the high level outcomes of reducing juvenile recidivism and equitable service delivery.

2. JCP Basic Services Target Population and Funded Services. County shall target its Basic Services to the Target Population for Basic Services.

a. JCP Basic Services Target Population are youths 10 to 17 years of age who have been referred to a County Juvenile Department and have more than one of the following risk factors:

(i) Antisocial behavior.
(ii) Poor family functioning or poor family support.
(iii) Failure in school.
(iv) Substance abuse problems.
(v) Negative peer associations.

b. JCP Basic Services funds provide primary County Juvenile Department services and sanctions that prevent the highest risk local youth offenders from re-offending in the community, including but not limited to, detention, shelter, treatment services, graduated sanctions, and aftercare.

3. Service Plans

a. Service Plan Submission. County shall submit a written JCP Basic Services Plan in a format and within the timeline prescribed by OYA. County and OYA shall work in good faith to modify the draft Service Plan so that it is acceptable to both parties and approved by OYA. Upon agreement, County shall implement Services according to the agreed-upon Service Plan. The Service Plan on file with OYA on the effective date of this Agreement is the Service Plan for the 2019-2021 biennium. Until the Service Plan for the 2021-2023 biennium has been approved by the OYA and is on file with the OYA, the Service Plan for the 2019-2021 biennium shall remain in effect and County shall continue to provide Services under that Plan; once the Service Plan for the 2021-2023 biennium has been approved by OYA and is on file with OYA, it shall replace the Service Plan for the 2019-2021 biennium and be incorporated into and be a part of this Agreement in accordance with Section 3 of this Agreement, without any further action on the part of the parties.

(i) The Service Plan shall include a budgeted amount for each service which will be the basis for the quarterly invoicing on OYA's prescribed format for Expenditure Reporting/Request For Payment as described in Exhibit B, Section 4.

(ii) All funded services must focus on supporting the high level outcome in Section 1 of this Exhibit C.

b. Service Plan Implementation. County shall implement, or through Providers shall require to be implemented, the JCP Basic Services portion of the Service Plan as developed in 3.a. of this Section.

c. **Evidence-Based Services and Programs**. County shall work with OYA to develop a process to ensure that programs and services funded under this Agreement are appropriate and workable and meet the guidelines of evidence-based programs and cost effectiveness. County shall work with OYA to develop a reporting process on County's evidence-based programs and services funded under this Agreement. County shall submit to OYA such reports on County's evidence-based programs and services funded under this Agreement at such frequency as may be requested by OYA.

d. County shall work with OYA to develop a process to ensure that programs and services funded under this Agreement are delivered equitably and meet the state's goals and objectives for the provision of juvenile justice services. County shall work with OYA to develop a reporting process regarding equitable service delivery and delivery of services meeting the state's goals and objectives for the provision of juvenile justice services. County shall submit to OYA such reports at such frequency as may be requested by OYA.

4. Cultural Competency. County shall deliver all Services and require all Providers to deliver Services in a culturally competent and gender appropriate manner.

5. Amendment to Service Plan

All amendments to the Service Plan shall be in a format prescribed by OYA. County must obtain OYA approval for an amendment that makes any significant change in the Service Plan. A significant change in the Service Plan includes but is not limited to any funding change in the categories of services outlined in the Service Plan. County shall follow the following requirements if it desires to change the Service Plan:

a. The Service Plan budget may be amended to change allocations between categories of services while staying within the not-to-exceed Grand Total listed in Exhibit E.

b. County shall submit to OYA for review and approval any change(s) to the Service Plan budget aggregating 10% or greater of the total original budget, counting the requested change and all previous changes to the Service Plan budget. Any such change(s) will not be effective without OYA's prior written approval.

c. County shall submit written notification to OYA for any change(s) to the Service Plan budget aggregating less than 10% of the total original budget, counting the requested change and all previous changes to the Service Plan budget. This notification shall contain the substance of the change(s) and will be reviewed by OYA.

d. All changes to the Service Plan budget which comply with Sections 5.a and 5.b, or that comply with Sections 5.a and 5.c, shall be on file with OYA and shall become a part of the Service Plan and this Agreement from the effective date of the budget amendment without the necessity of executing a formal amendment to this Agreement. For purposes of this Section, the effective date of a Service Plan budget amendment is the date the Service Plan budget amendment is approved or notification is received by OYA, as applicable.

6. Grievance System. During the term of this Agreement, County shall establish and operate a system through which Clients receiving Services, and the Clients' parents or guardians, may present grievances about the delivery of the Services. At the time arrangements are made for delivery of Services to a particular Client, County shall advise the Client and the parents or guardian of the Client of the existence of this grievance system. County shall notify OYA of all unresolved grievances.

7. Reporting and Documentation

a. During the term of this Agreement, County shall provide OYA with the necessary service information to track treatment and accountability services in JJIS, as defined by JJIS policy, Exhibit F "Service Tracking in JJIS" as it may be from time to time amended, or by service extracts, for progress in achieving the high level outcomes. This also applies to providing information on funded services not tracked in JJIS.

b. In addition to the other reporting requirement of this Agreement, during the term of this Agreement, the County shall ensure that all OYA required data fields are entered into JJIS, unless a different process is approved by OYA.

c. If the County fails to meet any of the reporting requirements, OYA may conduct a performance review of the County's efforts under the Service Plan in order to identify ways in which the Service Plan may be improved. If, upon review, OYA determines that there are reasonable grounds to believe that County is not in substantial compliance with the Service Plan or this Agreement, OYA may notify the County regarding the alleged noncompliance and offer technical assistance, which may include peer review or other assistance, to reach such compliance. Nothing in this Section shall be construed to limit or restrict any OYA right arising out of County's default, as described in Exhibit B.

8. Youth Specific Reporting and Required Documentation

a. For all youth from County committed to OYA for community placement or placement in a Close Custody Facility during the term of this Agreement, the County must provide the following to OYA at the time of commitment:

(i) A reformation plan or case plan that has been approved by OYA. County shall ensure that the reformation plan or case plan accompanies the youth from the County at the time of commitment to OYA for community placement or placement in a Close Custody Facility.

(ii) Risk data derived from either a JCP Risk Screen tool or the OYA Risk/Needs Assessment tool.

(iii) Documentation of any mental health treatment;

(iv) Past and current prescribed psychotropic medication history;

(v) Past and existing suicidal ideation and behaviors;

(vi) All other information known to the County of behaviors that may be a risk of harm to youth offender or others;

(vii) Documentation of any medical information or developmental disability that might affect youth offender's ability to participate in activities or treatment.

b. County shall enter all youth specific service data in JJIS that is required for tracking services under this Agreement.

9. Other Agreement Requirements.

a. At a minimum, the County shall ensure the following processes are available to support the Service Plan:

(i) Disposition of parole violations;

(ii) Community Programs;

(iii) Plan for providing detention back-up and back up to Community Programs;

(iv) A process for making Close Custody Facility placement and parole decisions in accordance with the Service Plan;

(v) Preliminary revocation hearings in the community to determine whether probable cause exists to believe parole has been violated and, if so, whether parole should be revoked or whether intermediate sanctions are appropriate. County shall provide the hearing report to the designated OYA representative immediately after the hearing concludes. County shall ensure that the hearings are conducted in accordance with OAR 416-300-0000 et seq. and other applicable state and federal law.

JUVENILE CRIME PREVENTION BASIC SERVICES
INTERGOVERNMENTAL AGREEMENT
EXHIBIT D
PROVIDER REQUIREMENTS

1. Indemnification by Providers

County shall take all reasonable steps to cause its Provider(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's Provider or any of the officers, agents, employees or subcontractors of the Provider("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Provider from and against any and all Claims.

2. Provider Insurance Requirements

A. GENERAL.

County shall require its first tier Provider(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Providers perform under contracts between County and the Providers (the "Provider Contracts"), and ii) maintain the insurance in full force throughout the duration of the Provider Contracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. County shall not authorize Providers to begin work under the Provider Contracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Provider Contracts permitting it to enforce Provider compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Provider Contracts as permitted by the Provider Contracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Provider to work under a Provider Contract when the County is aware that the Provider is not in compliance with the insurance requirements. As used in this section, a "first tier" Provider is a contractor with which the County directly enters into a contract. It does not include a subcontractor with which the Provider enters into a contract.

B. TYPES AND AMOUNTS.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY
All employers, including Provider, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Provider shall require and ensure that each of its subcontractors complies with these requirements. If Provider is a

subject employer, as defined in ORS 656.023, Provider shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If Provider is an employer subject to any other state's workers' compensation law, Provider shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:
☒ **Required** ☐ **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the Agency. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, or operation. Coverage shall be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit shall not be less than $2,000,000.

AUTOMOBILE LIABILITY INSURANCE:
☒ **Required** ☐ **Not required**

Automobile Liability Insurance covering Provider's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:
☒ **Required** ☐ **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the Provider Contract by the Provider and Provider's subcontractors, agents, officers or employees in an amount not less than $1,000,000 per claim. Annual aggregate limit shall not be less than $2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Provider shall provide Tail Coverage as stated below.

PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE:
☒ **Required** ☐ **Not required**

Abuse and Molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Provider is responsible including but not limited to Provider and Provider's employees and volunteers. Policy endorsement's definition of an insured shall include the Provider, and the Provider's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Any annual aggregate limit shall not be

less than $3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

EXCESS/UMBRELLA INSURANCE:
A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL COVERAGE REQUIREMENTS:
Provider's insurance shall be primary and non-contributory with any other insurance. Provider shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:
All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under the Provider Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Provider's activities to be performed under the Provider Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Provider's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:
Provider shall waive rights of subrogation which Provider or any insurer of Provider may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Provider will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Provider or the Provider's insurer(s).

TAIL COVERAGE:
If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Provider shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Provider Contract, for a minimum of 24 months following the later of (i) Provider's completion and County's acceptance of all Services required under the Provider Contract, or, (ii) County's or Provider termination of Provider Contract, or, (iii) The expiration of all warranty periods provided under the Provider Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:
County shall obtain from the Provider a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s)

shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:
The Provider or its insurer must provide at least 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:
Provider agrees to periodic review of insurance requirements by Agency under this Agreement and to provide updated requirements as mutually agreed upon by Provider and County.

STATE ACCEPTANCE:
All insurance providers are subject to Agency acceptance. If requested by Agency, Provider shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit D.

JUVENILE CRIME PREVENTION BASIC SERVICES
INTERGOVERNMENTAL AGREEMENT
EXHIBIT E
FUNDING

SERVICE	**TOTAL**
JCP BASIC	$74,632.00

The amount indicated as the Total above represents the maximum amount that OYA may pay to County under this Agreement. This amount is not a firm, fixed amount unconditionally guaranteed to be provided to County, but is a not-to-exceed amount expected to be available for allowable payments to County for performing the Services set forth in the Plan and other provisions of this Agreement.

EXHIBIT C – SERVICE TRACKING IN JJIS

This Policy Statement "Service Tracking in JJIS" may be updated from time to time. County is responsible for checking OYA's Public website at http://www.jjis.state.or.us/policy/servicetracking.htm for the most current version. Below is an example of the Policy Statement current as of the date of this Agreement. Any additional forms listed within the example can be accessed by accessing the website listed above and following the associated links.

Oregon
Juvenile Justice Information System

Policy Statement

Service Tracking in JJIS

Approved: Philip Cox, Co-Chair JJIS Steering Committee	Effective Date:	1/16/2013
	JJIS Steering Committee Approval:	12/19/2012
	JJIS Policy & Standards Committee Approval:	8/22/2012
	Supersedes:	
REFERENCE:		

PURPOSE:	• *To provide a standard for consistency in tracking services in JJIS;* • *To provide a threshold for a view of current juvenile justice practice;* • *To provide a foundation to compare trends in key service areas over time; and* • *To establish a foundation to develop capacity to measure results based on evidence*
DEFINITIONS:	Services are classified in JJIS according to Program Type as described below. Services are organized activities or programs designed to hold youth accountable for behavior or provide treatment, skills and capacities to change behavior.

Program Type	Definition
Accountability	Services designed to provide a consequence or an accountability experience for a youth. Examples include extended detention, community service, and restitution. Includes services designed to provide alternative service coordination for accountability experiences such as Sanction Court, Peer Court and Youth Court.
Competency Development	
Educational	Elementary and secondary education programs and services designed to assist a youth in obtaining either a high school diploma or a GED.
Independent Living	Services designed to assist a youth transition into independent living.

Program Type	Definition
Skill Development – Non-Residential	Non-residential services that assist youth in changing values, attitudes and beliefs in order to demonstrate pro-social thinking and behavior and in developing life skills and competencies for pro-social thinking and behavior. Interventions in this category include Anger Management, Conflict Resolution, Effective Problem Solving, Cognitive Restructuring.
Skill Development – Residential	Residential services that assist youth in changing values, attitudes and beliefs in order to demonstrate pro-social thinking and behavior and in developing life skills and competencies for pro-social thinking and behavior. Interventions in this category include Anger Management, Conflict Resolution, Effective Problem Solving, Cognitive Restructuring.
Therapeutic Foster Care	Foster care in homes with foster parents who have been trained to provide a structured environment that supports youth's learning social and emotional skills.
Vocational	Services to teach basic vocational skills, career exploration, skills and vocational assessment, vocational training, work experience, work readiness and life skills related to maintaining employment.
Family	
Family Counseling	General family counseling services.
Family Education	Family & Parent Training and Education services. This category excludes family mental health programs and multi-dimensional family services like Family Counseling, Multi-Systemic Therapy & Functional Family Therapy.
Functional Family Therapy	Empirically based family intervention services for youth and their families, including youth with problems such as conduct disorder, violent acting-out, and substance abuse. Service is conducted both in clinic settings as an outpatient therapy and as a home-based model
Multi-Systemic Therapy	Empirically based family intervention service for youth and their families that works on multi-systems within the family and extended family structure.
Fire Setter	
Fire Setter – Non-Residential	Non-residential treatment services for youth with inappropriate or dangerous use of fire.
Fire Setter – Residential	Residential treatment services for youth with inappropriate or dangerous use of fire.

Program Type	Definition
Gang	
Gang – Non-Residential	Non-residential services designed to address juvenile gang related behavior, membership and affiliation.
Gang – Residential	Residential services designed to address juvenile gang related behavior membership and affiliation.
Mental Health	
Mental Health – Non-Residential	Non-residential and aftercare services designed to treat specific DSM-IV Mental Health diagnoses.
Mental Health Residential	Residential services designed to treat specific DS MIV Mental Health diagnoses.
Co-Occurring	
Co-Occurring – Non-Residential	Non-residential and aftercare services designed to treat youth with co-occurring specific DS-MIV Mental Health diagnoses and substance abuse issues.
Co-Occurring – Residential	Residential services designed to treat youth with co-occurring specific DS-MIV Mental Health diagnoses and substance abuse issues.
Sex Offender	
Sex Offender – Non-Residential	Non-residential services designed to address juvenile sex offending behavior and prevent subsequent behavior.
Sex Offender – Residential	Residential services designed to address juvenile sex offending behavior and prevent subsequent behavior.
Substance Abuse	
Substance Abuse - Non-Residential	Non-residential services designed to address juvenile substance abuse and assist youth in avoiding substance abuse and/or chemical dependency. Interventions include Drug Courts, DUII Impact Panels, Substance Abuse Education and Support Groups and Outpatient Treatment or after care.
Substance Abuse - Residential	Residential services designed to address juvenile substance abuse and assist youth in avoiding substance abuse and/or chemical dependency.

Other Youth Services	
Drug Court	Specialized courts designed to handle cases involving substance abuse where the judiciary, prosecution, defense, probation, law enforcement, mental health, social service and treatment communities work together to break the cycle of addiction. Offenders agree to take part in treatment, regular drug screenings, and regular reporting to the drug court judge.
Mentoring	Services foster a relationship over a prolonged period of time between a youth and older, caring, more experienced individuals who provide help to the younger person to support healthy development.
Other – Residential	Residential services which are unable to be categorized with any of the existing categories.
Other – Youth Services	Other services which are unable to be categorized with any of the existing categories.
Victim Related	Services other than Restitution or Community Service that assist youth in developing empathy for victims of their crimes and provide opportunities to repair harm. Interventions in this category include Victim Impact Panels, Victim Offender Mediation.
Wrap Around	Planning process designed to create individualized plans to meet the needs of children and their families by utilizing their strengths. The exact services vary and are provided through teams that link children, families and foster parents and their support networks with child welfare, health, mental health, educational and juvenile justice service providers to develop and implement comprehensive service and support plans.
Assessment	Assessments and evaluations performed to help identify the need for specialized services.
Foster Care	Foster care
Medical	Medical services such as medication management, routine physicals and dental exams, tattoo removal services and other medical care.

POLICY:

Tracking and reporting on services provided to youth by Oregon's juvenile justice system provides a view of current juvenile justice practice, creates a preliminary framework to develop means of analyzing results in the future, and moves the juvenile system toward evidence-based practices.

Tracking

Required Tracking

All youth specific competency development, treatment services, and designated youth services funded with state Prevention, Basic, and Diversion funds and all OYA paid services in the following Program Types will be tracked in JJIS:

- Competency Development
  - Educational
  - Independent Living
  - Skill Development – Non-Residential
  - Skill Development – Residential
  - Therapeutic Foster Care
  - Vocational
- Family
  - Family Counseling
  - Family Education
  - Functional Family Therapy
  - Multi-Systemic Therapy
- Fire Setter
  - Fire Setter – Non-Residential
  - Fire Setter – Residential
- Gang
  - Gang – Non-Residential
  - Gang – Residential
- Mental Health
  - Mental Health – Non- Residential
  - Mental Health – Residential
- Co-Occurring
  - Co-Occurring – Non-Residential
  - Co-Occurring – Residential
- Sex Offender

- Sex Offender – Non-Residential
- Sex Offender – Residential

- Substance Abuse
  - Substance Abuse - Non-Residential
  - Substance Abuse - Residential

- Other Youth Specific Services
  - Drug Court
  - Mentoring
  - Other Residential
  - Other Youth Services
  - Victim Related
  - Wrap Around

At a minimum, the Service Start Date, End Date and Completion Status will be tracked consistent with local policy, using at least one of three JJIS features:

- Services
- Case Plan Interventions
- Programs attached to Conditions

In the event that multiple features have been used to track the same program with overlapping dates, JJIS will create a summary Service Episode record for reporting.

Services tracked in other JJIS features, such as Population Groups, will not be recognized in reports designed to analyze service records because the data will not be standardized with appropriate reporting attributes.

Unless otherwise approved to provide a comparable data file to include with reports, only those services tracked in one of the three approved features will be recognized in statewide JJIS reports. The annual published report will include only accountability, competency development, and treatment services.

Subject to local policy, service dosage, attendance, and participation may be tracked using the Attendance Tracking feature.

Optional Tracking

Service tracking is not required for the following basic and infrastructure services, but may be tracked according to local protocol.

- Accountability services designed to provide a consequence or an accountability experience for a youth.
  - Community Service
  - Work Crews

- Restitution Programs

- Accountability services designed to provide alternative service coordination for accountability experiences
  - Sanction Court
  - Peer Court
  - Youth Court
- Basic and Intensive supervision; offense specific caseloads; intensive monitoring
- * Basic pre-adjudicatory detention, detention sanctions, extended detention, and basic shelter care

* Detention and shelter based treatment programs may be tracked as service separate from the custody episode.

Non-trackable Services

- Other Basic Services
  - Assessments and Evaluations.
  - Medical Services
  - Activity Fees
  - Clothing Vouchers
  - Education (including GED Testing and Tutoring)
  - Electronic Monitoring & Tracking
  - Medication
  - **Polygraphs
  - School Liaison Counselor
  - Service Coordination
  - Translation Services
  - Transportation & Gas Voucher
  - **UA's.

** Polygraphs and UA's results may be tracked in Conditions.

Monitoring Data Integrity

Monitor Administrative - Set Up

OYA and county juvenile departments will review the providers and programs set up in JJIS at least annually to assure proper Program Type classification, accurate visibility to users in the drop down lists, and other optional reporting attributes. OYA and counties share provider and programs and it is essential that these attributes be set up correctly in order to assure accurate reporting.

	Counties programs also have a funding reporting attribute called Report Option – which identifies how a program is funded for a particular county during a specified date range. This is the only attribute that provides the opportunity to report on programs funded with state Diversion, Basic, and Prevention dollars and must be maintained. Counties are responsible to assure their Report Options are accurate. OYA's Diversion Specialist will facilitate an annual audit of county programs in JJIS to assure consistency with the annual Diversion and Basic plans, and will provide a copy of the annual inventory to the state office responsible for administering state Prevention funds to assure consistency with the Prevention plans. JJIS Report 562 – Active Program Report Options and Visibility can be used to monitor the administrative set up for a specific office. • http://www.jjis.state.or.us/reports/details/detail00562.htm **Monitor Service Tracking** A variety of reports have been developed to monitoring tracking throughout the year. Offices will use these reports to assure that services intended to be tracked are tracked. Data provided via a data file, instead of recorded in JJIS, will be included in these reports only if the data file has been submitted to the OYA Information System Reports team prior to the scheduling of the report in the format and within the timeline established by team. JJIS Report 363 Program History Summary Extract can be used to monitor service tracking data entry. This data extract can be scheduled for active during a date range, started during a date range, or ended during a date range for a specific reporting category and for a specific agency. • http://www.jjis.state.or.us/reports/details/detail00363.htm **Attendance Tracking** JJIS maintains a comprehensive Attendance Tracking feature to provide a way to document youth attendance and progress in a number of defined program sessions, and can be used to document group and individual treatment sessions. Offices will implement this feature subject to local policy. Offices that implement this feature are responsible to maintain the Program Course Definitions that are required to manage its use.
PROCEDURES:	**Tracking Services** 1. Determine which JJIS feature the office will use to track services: o Services o Case Plan Interventions

	○ Programs on Conditions 2. Determine when service will be tracked in JJIS – when service is opened, when service is closed, when case is closed. Services tracked when the case is closed might be excluded from reports. 3. Determine local protocol for who will enter the services. 4. Train staff on local policy and protocol. **Maintaining Provider/Programs in JJIS** 1. Conduct an annual inventory of Providers and Programs in JJIS. 2. Verify the program is still active for the office and other reporting attributes. 3. Submit changes to the JJIS Help Desk via the appropriate Provider/Program Request Form. Requests for new programs and requests to inactivate or remove visibility from a program must be initiated with the form. **Maintaining Attendance Tracking Course Definitions** 1. Conduct an annual inventory of active Course Definitions in JJIS. 2. Verify the course and course definitions are still active for the office. 3. Submit requests for new program course descriptions or changes to existing descriptions to the JJIS Help Desk the appropriate Provider/Program Request Form. Requests to inactivate an existing course description may be submitted by an authorized representative from your office to the JJIS Help Desk by email.
FORMS:	• OYA Provider Program and Course Definition Request Form (YA 1751) • JJIS Form 10a and 10b Instructions • JJIS Form 10a – County Provider Program Request Form (new program) • JJIS Form 10b – County Program Form (mass entry/annual review)

MOTION

SUBJECT: **JCP Agreement**

I move to approve IGA 14693 between Wasco County and the State of Oregon for Juvenile Crime Prevention Basic Services.

CONSENT AGENDA

MINUTES:

- 9.29.2021 WORK SESSION
- 10.6.2021 REGULAR SESSION

9-1-1 MAINTENANCE AGREEMENTS RENEWALS

WASCO COUNTY BOARD OF COMMISSIONERS

WORK SESSION

SEPTEMBER 29, 2021

This meeting was held on Zoom

https://wascocounty-org.zoom.us/j/3957734524

or call in to 1-253-215-8782 Meeting ID**: 3957734524#**

PRESENT:	Scott Hege, Chair Kathy Schwartz, Vice-Chair Steve Kramer, County Commissioner
STAFF:	Kathy Clark, Executive Assistant Tyler Stone, Administrative Officer

Chair Hege opened the session at 3:00 p.m. He reviewed a list of possible Work Session topics:

- Shaniko City Council
- East Cascade Work Force
- Codes Enforcement
- Fee Schedule – Guiding Policy
- Housekeeping Items

SHANIKO CITY COUNCIL

Wasco County Clerk Lisa Gambee explained that all members of the Shaniko City Council have resigned their positions leaving no governing body. The last resignation, from the Shaniko Mayor, was submitted yesterday under advice of City Counsel. Under statute, the County Commission is empowered to appoint three members to the council in order to have a quorum. The appointed council members would then appoint the remaining members of the Council including a City Recorder and Mayor. All positions would go on the ballot at next year's general election.

Ms. Gambee went on to report that she posted notices in Shaniko yesterday afternoon and provided qualification forms to be completed and submitted to the Board's Executive Assistant no later than 4 p.m., Tuesday, October 5th. Those forms will be reviewed by the Clerk's office to ensure that applicants meet the

minimum requirements of office such as age and residency. The forms will then be forwarded to the County Commissioners for consideration and possible appointment at the October 6, 2021 Regular Session. She noted that some former council members have brought claims against the City of Shaniko which may present a conflict of interest for holding office.

Vice-Chair Schwartz asked why the Mayor needed to resign. Ms. Gambee explained that if the Mayor remained in office, the Board could not appoint – the City would have to pay for a special election which they cannot afford.

Chair Hege asked what would happen if we do not get applications. Ms. Gambee replied that she does not know; less than three would not provide the necessary quorum. They may have to look at disincorporation but that would have to go to a vote of the citizens.

Vice-Chair Schwartz asked if there has been any electronic notification. Ms. Gambee replied that she is not aware of any list although she has already taken a few calls. She said she is following the same process as the City does for elections.

EAST CASCADE WORK FORCE

Commissioner Kramer said that he has a request from the Executive Director of the East Cascade Work Force to add Wasco County's logo to a letter seeking a program investment from the State. He went on to explain that he is the Vice-President of a 10-county Board; there are 9 Boards throughout the state and they have all come together for this request. The work force programs support the talent needs of employers, and maximize and align investments in the career goals of individuals to fuel a thriving economy. These programs have not received any funding through CARES or ARPA and have lost both state and federal funding. They seek action by the legislature at the short session in 2022 and are requesting $50 million which would be applied to training resources and broaden work with community colleges.

*****The Board was in consensus to add the Wasco County logo to the Request for Action letter being submitted to the Oregon Legislature on behalf of the Work Force groups.*****

MID-COLUMBIA CENTER FOR LIVING

Mr. Stone reported that he attended a MCCFL Work Session today and wants to bring the Board up to speed. He stated that MCCFL is without an Executive Director, an HR Director and is contracting for IT services. They also have over 40

staff positions open. MCCFL is our local mental health authority as well as for Sherman and Hood River Counties. We have a responsibility to make sure they are successful. He said that he was asked to take a look at the organization and has talked to some of the staff to get a better feel for the situation. There have also been some discussions in the community around what mental health should look like for our citizens. We not only have an investment but we also have an obligation through the CDBG grant we sponsored. We have a vested interest in making this work.

Mr. Stone went on to say that we can probably help with administration and IT Services in the short term and potentially HR. At today's meeting the MCCFL Board generally responded that they can use all the help they can get. We have a strong team at Wasco County but would likely have to enhance our staff to support MCCFL. They currently have an Interim Director but he is a clinical manager and the organization could use an administrator. On the HR side, we may not have capacity right now but might find a long-term solution. IT would be a heavy lift and tax our staff resources. He said he wants to make sure he has the support of the Board of Commissioners before making any commitments. He said that he could probably keep it afloat for 6 months as the Executive Director but we would need much more – HR and IT support. They could continue to contract that out but it is a significant cost – we can do a better job for a lower cost.

Chair Hege, also MCCFL Board Chair, said that this is MCCFL's responsibility and there may be some opportunities but this is an interesting solution. He said that he hopes they come back in 2 weeks to discuss it further. Right now, they are trying to stabilize the organization. Today's work session was good and they had someone out of the valley with a lot of experiencing helping.

*****The Board was in consensus for Mr. Stone to continue to pursue solutions for MCCFL.*****

CODES ENFORCEMENT

Chair Hege reported that he got another call today regarding an issue with codes violations. Our Codes Enforcement Officer has transferred to Planning and we have a vacancy. However, this discussion is about how heavy handed we want to be. There is usually a complainant and a violator who needs to do work. Sometimes this takes years and there is a lot of frustration.

Mr. Stone stated that we can place a lien on the home of a non-compliant owner and then we would clean it up but the Board has not wanted to be in that role. We

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have focused efforts on voluntary compliance. We do have some that are perpetual problems but have had success with voluntary compliance.

Chair Hege agreed and added that there has to be a point at which enough is enough. When do we take action? He said he is taking calls from frustrated citizens who have been in the process for 10 years or more.

Vice-Chair Schwartz commented that it is a complicated issue. It is almost like a social service as some do not have the means or physical capacity to address the problem. In other cases it is a matter of one person seeing it as junk and another seeing it as treasure.

Chair Hege said we owe it to our citizens to take on the challenge. Vice-Chair Schwartz asked if our Codes Enforcement position is full-time. Mr. Stone replied that it is but it is currently vacant.

Chair Hege added that Interim Planning Director Kelly Howsley-Glover is working on a redesign of the program and so the position is not yet posted.

Commissioner Kramer stated that in the meantime, we need to move forward on a case by case basis. Those that have been ongoing for 10 years need to be firmly dealt with and we need to put resources behind that effort. It is a problem throughout the county and there is no excuse for it. With all the programs out there, we should be able to work with our partners to resolve these situations. We need to bring the discussion of citations back and move it forward.

Vice-Chair Schwartz said that we need to enforce our codes manual and ordinance.

FEE SCHEDULE GUIDING POLICY

Mr. Stone explained that the County has an annual process for amending the Fee Schedule. We go department by department to review for relevancy and increase/decrease and eliminate fees as a result. What was presented to the Board at the last Regular Session is the updated Fee Schedule. The only thing that was different is that we placed a floor of 3% on the fees to respond to the criticism that we have in the past asked for large increases that are hard to swallow rather than incremental increases on a regular basis. Another piece that our departments look at is to ask if the fee is adequate the cost of service. Electrical codes fees do not cover costs by 30-40%; Scenic Area planning reviews are massive compared to regular reviews. UPRR was massive and needed to be in line with the amount of work that was needed to do that. The vast majority of our fees are already

subsidized by General Fund dollars. We do not want to lose ground; we want to maintain. The current update is the fee increases that the directors advised and for those that they did not change, we applied the 3% floor. The one that stands out is the Scenic Area fees which the Board directed that we increase to better cover costs.

Chair Hege commented that CPI or 3%, from the standpoint of a guiding policy, we should have the same base and then the question becomes if you need more, you justify that additional increase; if the increase is less or non-existent, why. For instance, some fees are dictated by State statute. CPI makes sense and we can look at it – our costs go up every year.

Vice-Chair Schwartz stated that she thinks it is appropriate for fees to increase but it should be standard. If they want to go higher, they can justify that. Perhaps they can compare to neighboring counties. Mr. Stone observed that that is exactly what we did this year – the floor was 3% and if they needed to go higher they did so.

Vice-Chair Schwartz said that she thinks they should all use 3%. Mr. Stone said that 3% is a good middle ground number. Vice-Chair Schwartz noted that 3% is about what annual inflation is. She said she would like to see that be standard. The idea that we have not raised a fee since 2014 is not good justification. She said that we can make a decision on each fee, but it makes sense to standardize and then justify not increasing or increasing further. That would give departments some discretion.

Chair Hege said that he would prefer using the CPI because it will move; 3% could be too high or too low in any given year. We can start with the CPI and adjust from there. Vice-Chair Schwartz said that CPI would be acceptable.

Mr. Stone said that we can use CPI West for next year.

Chair Hege said that what is standing out this year is the Scenic Area fees. Vice-Chair Schwartz said that she does not recall that we were going to raise the fees. She said that she remembers saying that we would track data to present to DLCD to get more state funding but not that we would be raising the fees.

Chair Hege replied that we said both. Vice-Chair Schwartz said while that is possible, she did not expect to have such a great rate increase. We did get $5,000 a year from DLCD. Mr. Stone commented that $5,000 will cover 1 scenic area review. Chair Hege commented that he thought the Scenic Area increases a bit steep; however, we do not have to do the Scenic Area planning – having those not

living in the scenic area subsidize is also not equitable. He said he would like to try to make ends meet.

Vice-Chair Schwartz pointed out that we agreed to do the Scenic Area planning.

Chair Hege said that it is similar to Building Codes but we have to make ends meet there.

Mr. Stone pointed out that another variable is that right now under the current Planning Department load, we need another planner The Planning Department needs to figure out how to pay for that. You could trade a planner and have the Gorge Commission do the Scenic Area planning.

Chair Hege stated that it seems that our Planning Department Directors have done a good job of tracking costs and we cover about 40% of those costs. Scenic Area planning is expensive; perhaps Hood River needs to look at raising their fees.

Vice-Chair Schwartz said that it seems as though we are saying that if you live in the Scenic Area, too bad for you. Chair Hege responded that he believes it is not our responsibility. It makes sense for us to do it, but the Gorge Commission should be paying for it. We do not subsidize Building Codes which we do on behalf of the State.

Vice-Chair Schwartz stated that once we take it on, it becomes our responsibility. We did that for the citizens that live there. If someone lived there prior to the Scenic Area, they could not have anticipated the increased costs.

Commissioner Kramer said that is a good point. This was forced upon us and we are paying for the consequences. Citizens were also dropped into the middle of it. However, we need to collect those dollars.

Vice-Chair Schwartz asked if that needs to be collected from the citizens. Commissioner Kramer replied that it does not need to be collected just from the citizens; these high fees are for those who are doing a substantial project. Mr. Stone concurred, saying that a lot of the work in the Scenic Area is not for a full review; but when someone buys a piece of property and is building a nice home, the full review is triggered and becomes expensive.

Vice-Chair Schwartz said a lot of this is just people putting up a barn. Chair Hege stated that the full review fees would not apply in those instances.

Chair Hege said that he would never subsidize Building Codes. We subsidize

Planning to some extent. He said he really does not care where we get the money, but we need to make ends meet. We don't have to get it all from the citizens.

Vice-Chair Schwartz said that she does not believe we will be subsidizing the Scenic Area fees with the proposed rate increases.

Chair Hege said that the federal government or the Gorge Commission needs to pay for this but it should not be a burden to citizens living outside of the Scenic Area.

Vice-Chair Schwartz commented that not everyone benefits from every program that they pay for through taxes.

Mr. Stone said that we need to look at what the Gorge Commission charges for a planner for Klickitat County. Chair Hege said that they get funding directly from Klickitat County; he said he does not want planning to be free in the Scenic Area.

Chair Hege asked if there is agreement to have some consistency in the rate increases with explanations for any deviations. Vice-Chair Schwartz said she would like some recognition of statutory fees.

Mr. Stone said that he would apply the CPI West for next year but was not planning on creating a policy. Vice-Chair Schwartz said that a policy would be good for future Boards and Administrators.

Mr. Stone said that statute already provides policy guidance. Vice-Chair Schwartz replied that our policy would be within that policy.

Chair Hege asked Vice-Chair Schwartz to have a conversation with the Planning Director to put a finer point on the Scenic Area increases. Mr. Stone suggested that we look at the subsidy for planning outside of the Scenic Area and apply the same percentage to planning within the Scenic Area.

Vice-Chair Schwartz asked if the Board can reject individual fee increases. Mr. Stone replied that they can.

HOUSEKEEPING ITEMS

It was announced that the Burn Ban will be lifted on October 16, 2021.

Commissioner Kramer said that each of the Commissioners received a note from Mr. Gibson about conditions at Taylor Lake. Vice-Chair Schwartz stated that she had gotten in touch with Mr. Gibson and will be taking his concerns to the Mayor's

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Homeless Initiative Committee.

Vice-Chair Schwartz said she had received a citizen complaint about protests taking place on County property located at 6th and Webber. Mr. Stone said he is working with the City Manager on that.

Ms. Clark reviewed the October 6th draft agenda with the Board, noting the need for good time management. Discussion ensued regarding COVID updates, it was concluded that we should move to an as-needed model rather than every meeting.

Ms. Clark explained that the tax numbers for the ODFW in lieu of taxes may not be ready for the packet. She asked if it would be acceptable to keep the item on the Consent Agenda as long as the Board had the numbers prior to approval and that the numbers be included in the record. The Board agreed to have the ODFW item remain on the Consent Agenda.

Discussion ensued regarding upcoming AOC events.

CONSENSUS

- **To add the Wasco County logo to the Request for Action letter being submitted to the Oregon Legislature on behalf of the Work Force groups.**
- **For Mr. Stone to continue to pursue solutions for MCCFL.**

Wasco County
Board of Commissioners

_____
Scott C. Hege, Commission Chair

_____
Kathleen B. Schwartz, Vice-Chair

_____
Steven D. Kramer, County Commissioner

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WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
OCTOBER 6, 2021
This meeting was held on Zoom
https://wascocounty-org.zoom.us/j/3957734524
or call in to 1-253-215-8782 Meeting ID: **3957734524#**

PRESENT:	Scott Hege, Chair
	Kathy Schwartz, Vice-Chair
	Steve Kramer, County Commissioner
STAFF:	Kathy Clark, Executive Assistant
	Tyler Stone, Administrative Officer

Chair Hege opened the session at 9:02 a.m.

Fair Manager Retirement

Chair Hege recognized Kay Tenold who is retiring after over 30 years of working to support the Wasco County Fair. He provided a brief history of Ms. Tenold's time with the Fair.

Kay began her involvement with the Wasco County Fair in 1990/91 alongside Jim Powell as Sheep Barn Superintendent.

In 1992, Kay was appointed to the Wasco County Fair Board, replacing Ed Urness. While the Fair Board had a woman performing secretarial functions, Kay was the first woman to be appointed as a Board member. Kay had to request that a lock be installed on the bathroom which was unisex.

Although Kay's last appointment to the Fair Board was made in 2007; Kay began acting as the volunteer Fair Manager in 2005, coordinating all aspects of the annual Wasco County Fair. From 2016 through 2021, Wasco County contracted with Kay to serve as paid Wasco County Fair Manager.

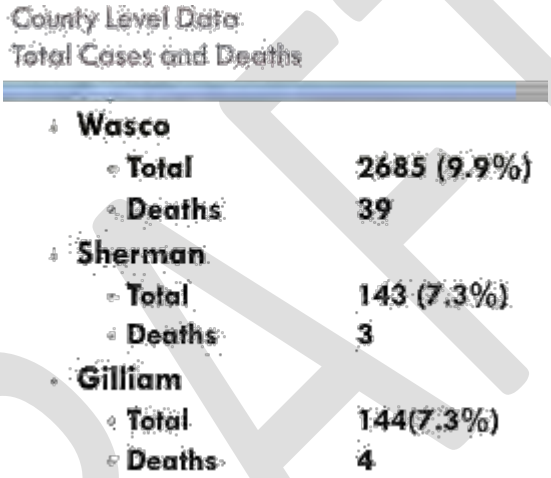
In addition to her service as Wasco County Fair Manager, Kay served 2 terms as the Area 3 Director for the Oregon Fairs Association. Kay also served on the Convention and Legislative Committees for Oregon Fairs Association where she

championed rural county fairs throughout the State of Oregon.

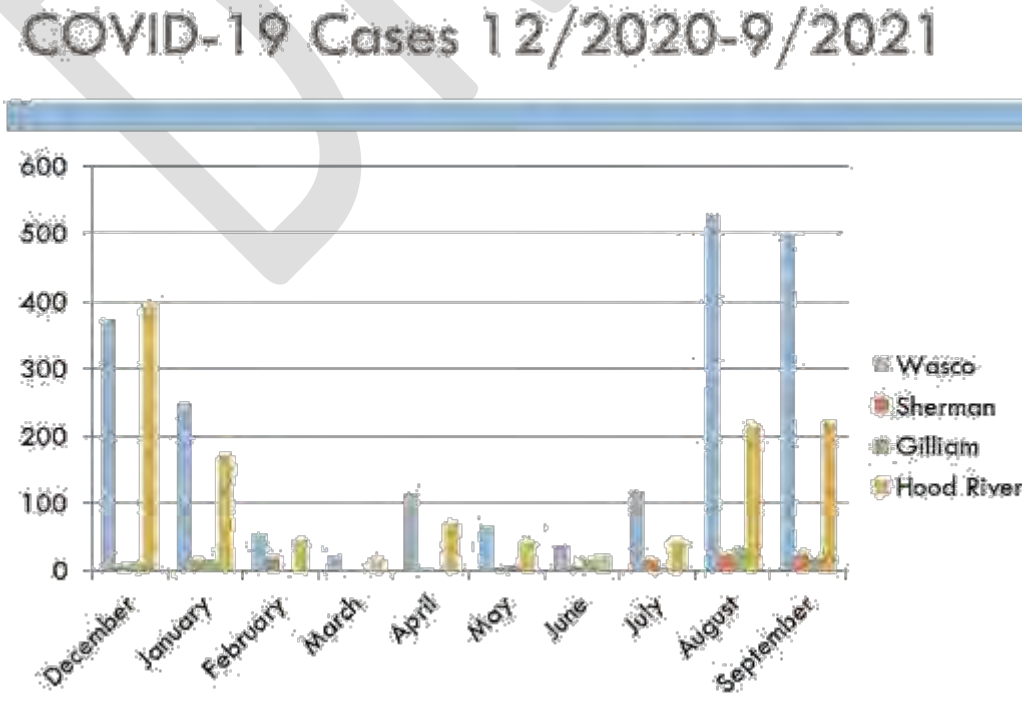
The Board thanked Ms. Tenold and wished her well in retirement presenting her with a certificate of appreciation and an engraved clock. Ms. Tenold thanked the Board and said that she would miss her Fair family but would certainly be attending the Fair for years to come.

Discussion Item – NCPHD COVID Update

North Central Public Health Officer Dr. Mimi McDonell reviewed the case numbers since the beginning of the pandemic. The percentages, in parentheses are a rough calculation of the total percentage of infection in each county.

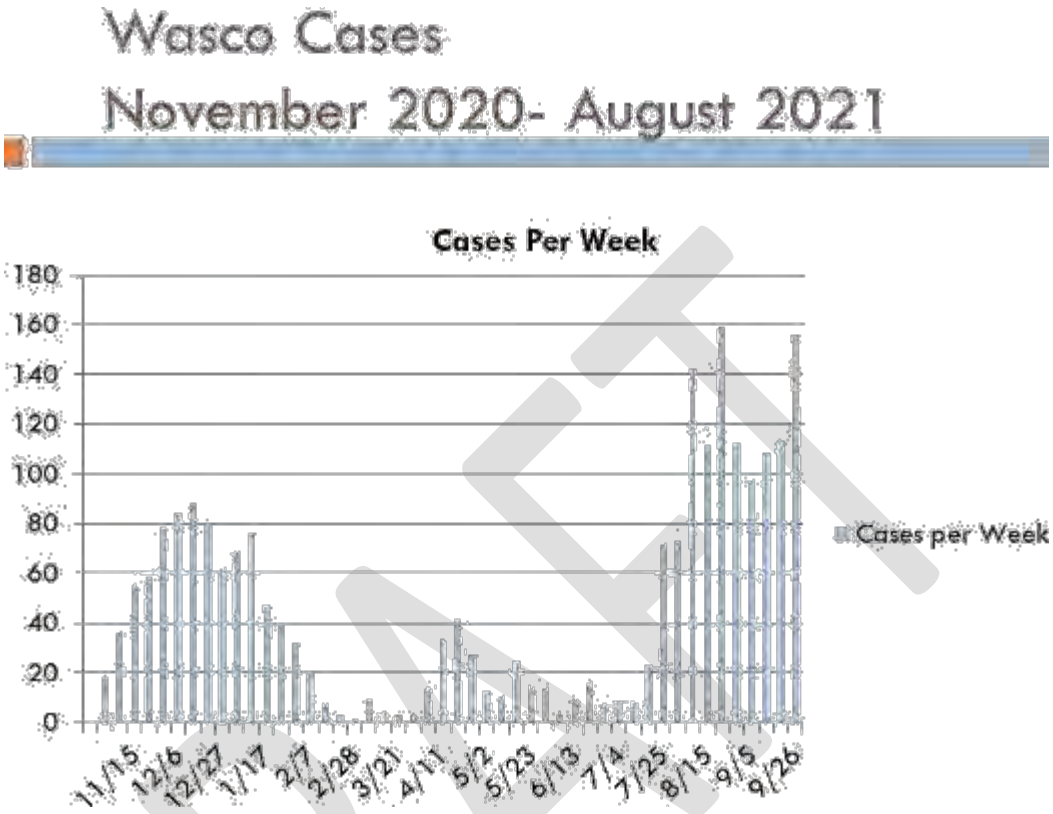


Dr. McDonell pointed out on the graph below that our current numbers are still much higher than they were at the winter peak. Although our numbers have dropped a bit over last month, they are still very high.



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Looking at the numbers by week you can see that there was a dip in mid-September with a sharp increase for the last week of the month.



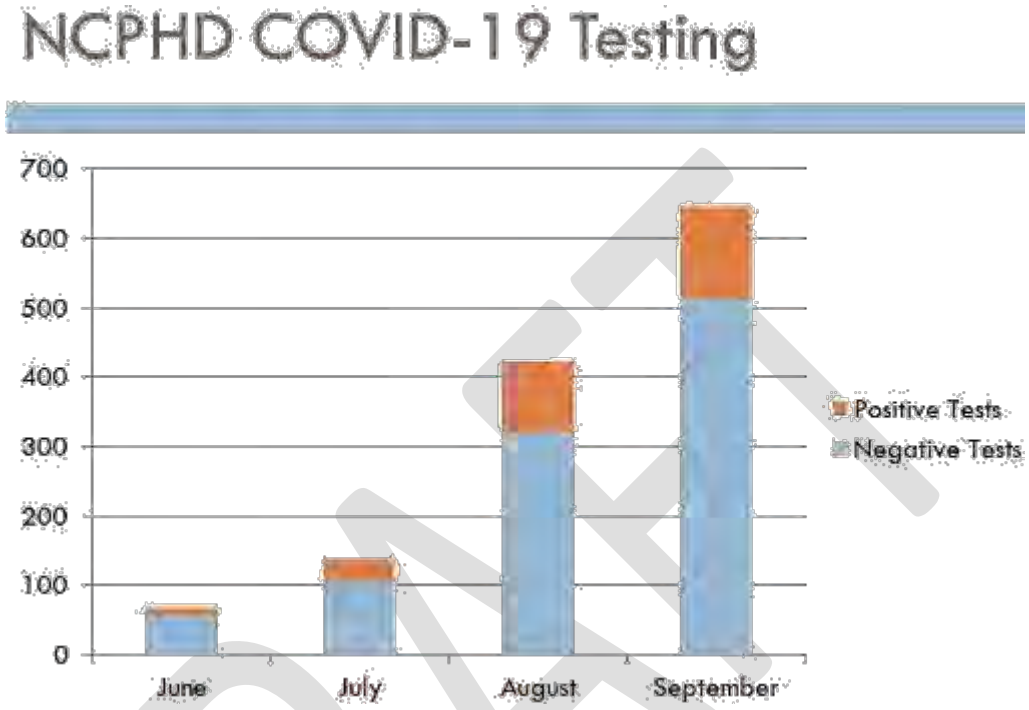
The metrics over the last week indicate that we are probably not capturing all of the positive cases that have occurred. The case rate per 100,000 in Wasco County is more than double that of the State of Oregon.

1 week metrics Sept 26- Oct 2

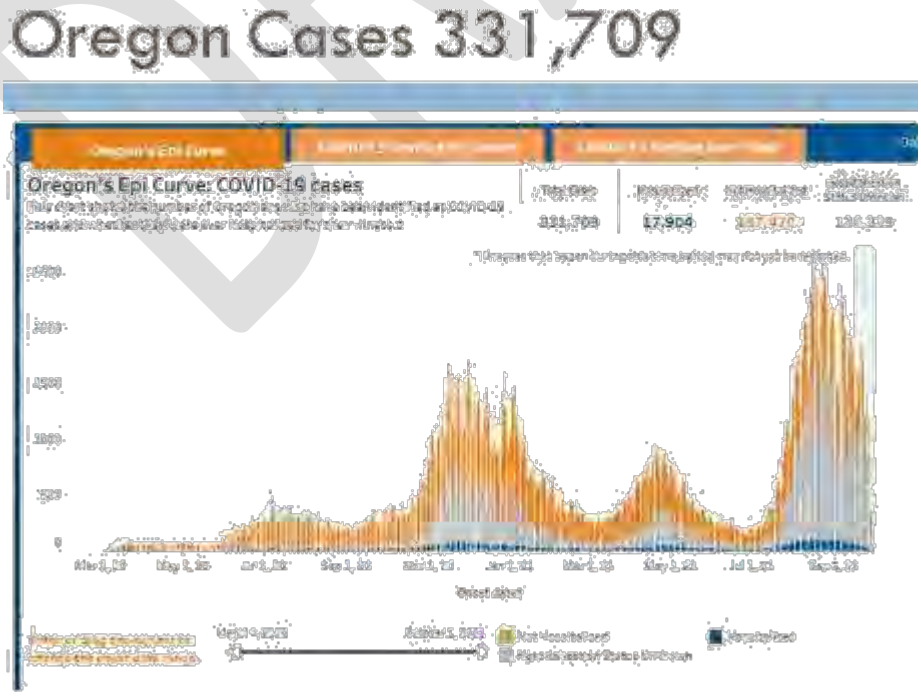
September 26	Count	Cases per 100,000	% positive
Wasco	156	571.5	11.1%
Sherman	7	390.0	14.1%
Gilliam	4	201.0	11.4%
Oregon	10,423	244.2	8.8%
Hood River	85	331.5	13.1%

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Dr. McDonell reported that the local clinics have been stretched by the spike in cases. NCPHD has begun doing testing in their parking lot for at least 4 hours a day. The chart below illustrates the number of people being tested each month with the orange portion of each bar representing the number of positive results.

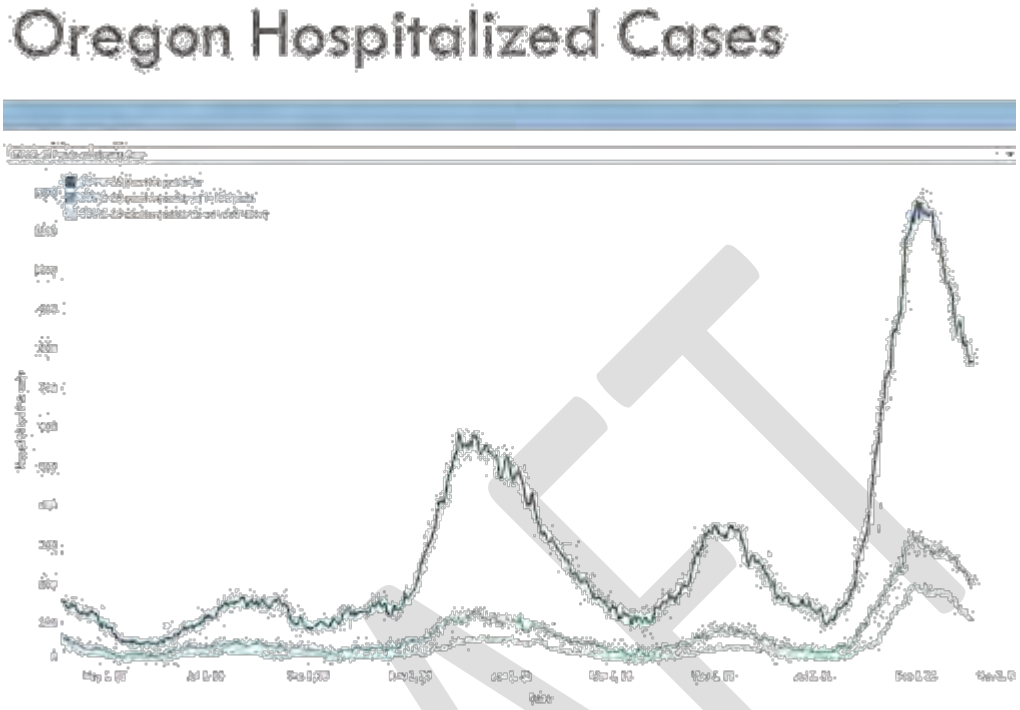


Across the state and country, the summer surge appears to be receding.

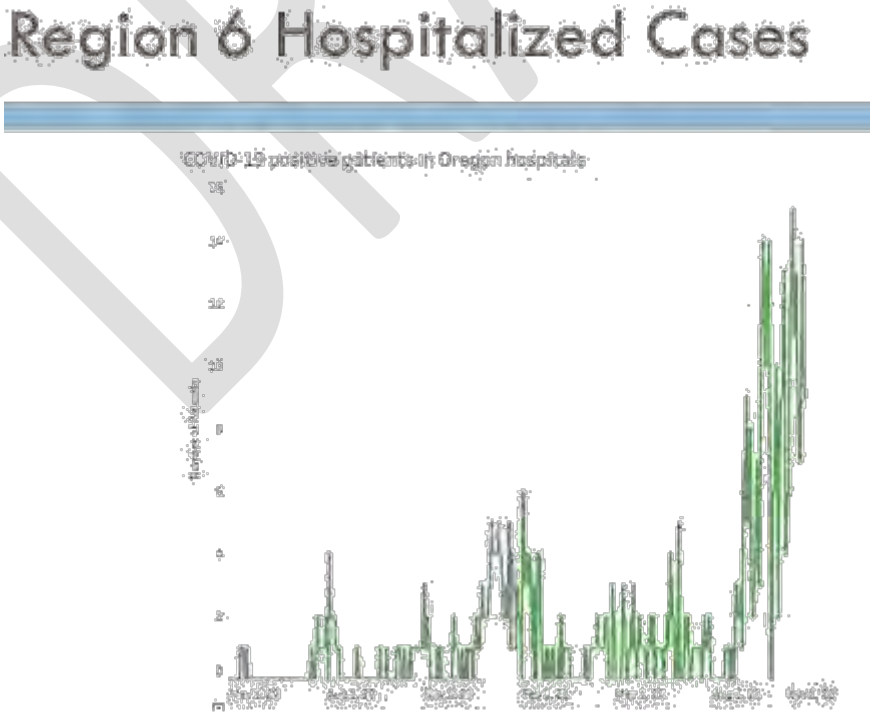


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The numbers of patients being hospitalized with COVID19 is also beginning a downward trend.

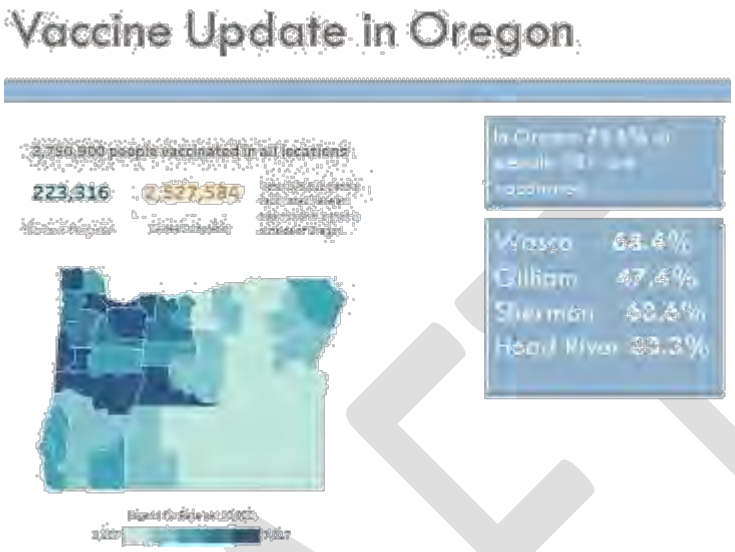


The two hospitals within our region have been taking care of a lot of COVID patients which come from all over our area. Hospitalizations have also begun to drop here.

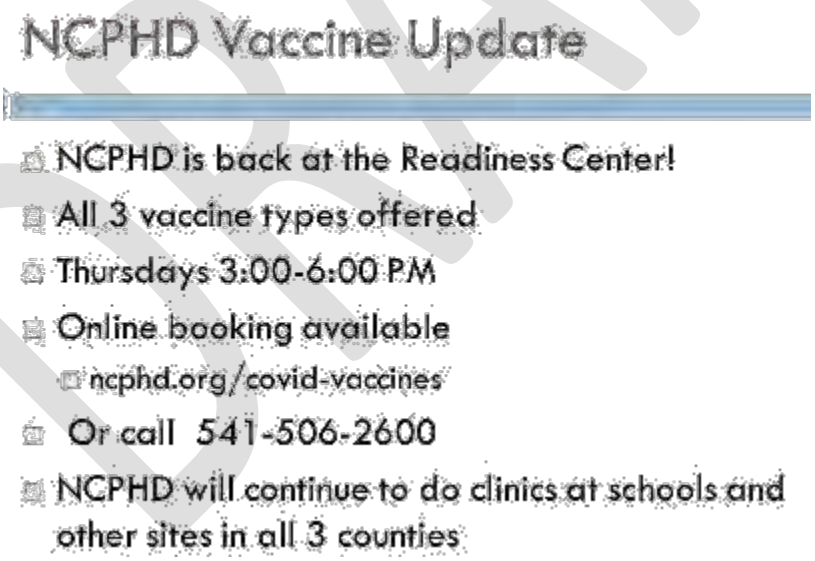


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Although Wasco, Sherman and Gilliam Counties continue to lag behind Hood River and the State, we continue to slowly increase the numbers of people who have been vaccinated.



Dr. McDonell reviewed what is being offered for vaccinations. She added that local pharmacies are doing a good job of providing vaccinations as well.



The poster below provides details for a vaccination clinic being held in collaboration with Pacific Islander groups. Although the clinic targets the Pacific Islander population, all are welcome.

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October 16 Vaccination Event

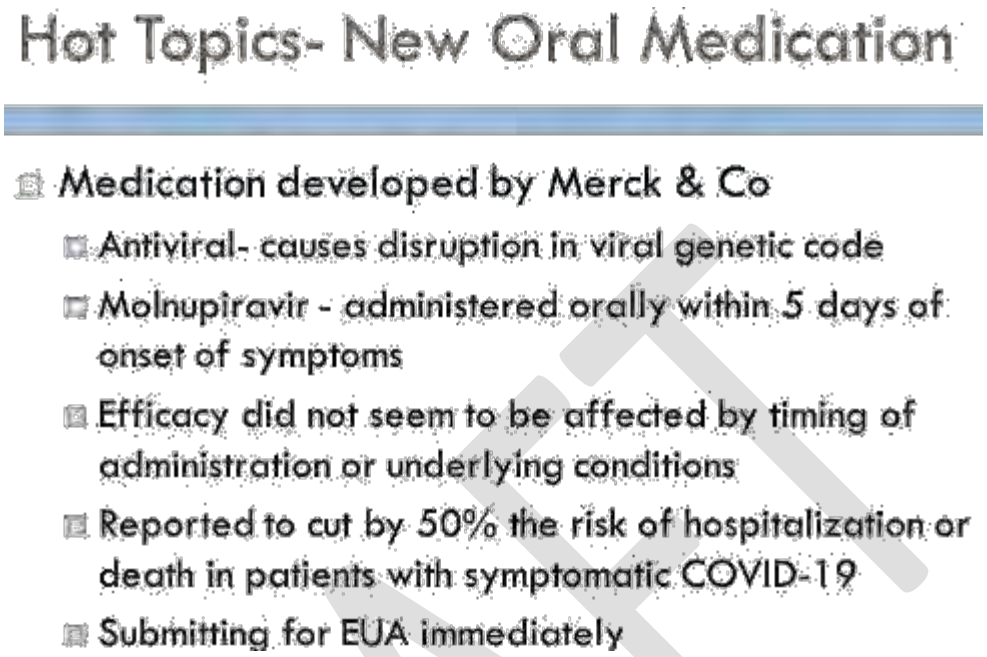


Vaccines for children are expected in the next few months. Boosters are expected to be available for all 3 vaccine brands for people meeting certain criteria.

Hot Topics- Vaccines

- Children-
  - Ages 5-11 early Nov, 6 mos-4 January 2022
- Vaccine # 3
  - #3 available now for immunocompromised individuals
  - Pfizer and Moderna
- Booster !
  - Currently Pfizer only
  - Anticipate approval for J&J and Moderna booster towards the end of October
  - Should: 65+, LTCF, 50-64 with high risk medical conditions
  - May: Ages 18-64 with high risk medical conditions or have a high risk of exposure due to workplace

A new oral treatment has been submitted for approval and has some promising results.



Vice-Chair Schwartz commented that it appears that Wasco County is trailing behind the State in cases and vaccinations; people need to be aware of that and be careful. Commissioner Kramer echoed Vice-Chair Schwartz's comments.

Chair Hege said that he attended a meeting last week in a big room with a fair number of people. During the meeting, they had lunch so people were unmasked for a significant period of time. Someone who attended that meeting has tested positive for COVID; he said he is curious as to what the other attendees should do.

Dr. McDonell said that those who were close contacts should be aware of their exposure. If they develop any symptoms within 2 weeks, even mild symptoms, they should be tested. They should also be conscientious about being around people who are unvaccinated or at high risk for complications should they contract COVID.

Vice-Chair Schwartz observed that what has changed is that the person testing positive is being asked to reach out to close contacts. We should not expect a call from Public Health as they are already overwhelmed with vaccinations, testing and responding to case rates. Dr. McDonell agreed that contract tracing has dropped off as they respond to cases; we have to rely upon the patient to help with

the outreach.

Discussion Item - Appointments

Vice-Chair Schwartz introduced Bill Lennox saying that he will make a good addition to the NCPHD Board.

{{{Vice-Chair Schwartz moved to approve Order 21-042 appointing William Lennox to the North Central Public Health District Board of Health. Commissioner Kramer seconded the motion which passed unanimously.}}}

Chair Hege explained that the Board of Property Tax Appeals reviews citizen applications to have their property value adjusted.

{{{Commissioner Kramer moved to approve Order 21-044 appointing Brian Lauterbach to the Wasco County Board of Property Tax Appeals. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Agenda Item – Uniform Fee Schedule Ordinance

Chair Hege opened the 2nd of two hearings for amending the Wasco County Fee Schedule Ordinance. Ms. Clark explained that nothing has changed in the schedule from the first hearing. She noted that Interim Planning Director Dr. Kelly Howsley-Glover has provided a memo to the Board in response to their discussion at the 9.29.2021 Work Session that may have an impact on the National Scenic Area Fees. That memo will be entered into the record. In addition, Ms. Clark asked for direction regarding the Building Codes fees which require a State process to be completed prior to being adopted by the Board.

Dr. Howsley-Glover reviewed the memo (attached), saying that on average, planning fees outside the National Scenic Area (NSA) are subsidized at a rate of 25%; while the subsidy rate for planning reviews within the NSA is 50.5%. She added that with the latest updates to the NSA Management Plan, they expect increased staff time.

Vice-Chair Schwartz thanked Dr. Howsley-Glover for the thorough memo. She noted that we have data over the last year of what it costs to do a review in the NSA but we do not have data for the impact of the NSA updates; those numbers are projections. Dr. Howsley-Glover replied affirmatively, saying that the first set of numbers is based on data gathered over the last year; the second set of numbers is based on what they expect will be the increase to the work load.

Vice-Chair Schwartz asked if they will be collecting that data over the next year. Dr. Howsley-Glover answered that they had not planned to do so but certainly can continue their tracking activity.

Sheila Dooley of Mosier said that she has not seen the new memo but the fees should match the effort. Applications vary in complexity; some outside of the NSA can be very involved and some inside the NSA can be very simple. People help pay for other services because it is for the common god. No County department pays for itself with user fees. It doesn't seem fair to increase the out of NSA fees by 5% while increasing in the NSA by 139-200%. She said she thinks more funding should come from the Department of Land Conservation and Development.

Dr. Howsley-Glover responded by saying they advocate for more DLCD funding every year and in recent years experienced the threat of losing all funding. She said that the fees for applications outside of the NSA are aligned with the amount of work it takes to process each one and take into consideration the complexity of the application. Because of the permitting structure, it is possible to gather more tracking data outside of the NSA. In the NSA it varies wildly and part of the challenge is that there is really only one track from which to gather data.

Vice-Chair Schwartz stated that another discussion at the Work Session was around the process by which we increase fees and about being more consistent by using a standard formula for increases. Toward that goal, the Board discussed creating a policy to outline a standard process. She said she would like to propose that we apply the 25% subsidy across the board. It is more expensive to do the work in the NSA, but the percentage of subsidy should be the same. Looking at the bigger picture, NSA residents facing more regulations benefits the rest of the county by being able to enjoy the beautiful view.

Chair Hege acknowledged the proposed changes to the Fee Schedule. He pointed out that staff has also asked that the Board determine whether or not they should pursue the State process for increasing Building Codes Fees. The only thing being suggested today is to modify the NSA Planning fees to what the Interim Planning Director has proposed in her latest memo (attached).

{{{Vice-Chair Schwartz moved to approve Ordinance 21-001 in the matter of Amending the Wasco County Uniform Fee Schedule with the following changes:

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- **National Scenic Area (NSA)**
  - **Expedited (Used listed in Section 3.110 of Wasco County NSALUDO) to be $1,332 instead of $1,960**
  - **Full Review to be $2,996 instead of $4,401**

Commissioner Kramer seconded the motion for discussion.

DISCUSSION

Commissioner Kramer said that he is fine with most of the motion but suggested that the Board consider the alternate scenario that includes the projected increased expense that will result from the Management Plan updates that will be enforced at the beginning of 2022.

Chair Hege stated that he would tend to agree but thinks that we can wait for next year's fee update when we have more information.

Vice-Chair Schwartz stated that she would be more comfortable with having solid data on which to base the increases. She said she is confident with the data that has been provided for the increases proposed without the projected costs for 2022.

Chair Hege called for a vote: Chair Hege voted yes; Vice-Chair Schwartz voted yes; Commissioner Kramer voted no.

The motion passed on a 2 to 1 vote.}}}

Agenda Item – Executive Session – Consulting with Counsel

At 9:58 Chair Hege recessed from the Regular Session to open an Executive Session pursuant to ORS 192.660(2)(h) and instructed representatives of the news media not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced.

The Regular Session resumed at 10:05 a.m.

Agenda Item – Vacation of Planning Appeal Decision

County Counsel Kristen Campbell explained that this is related to the recent mediated settlement of appeals filed in several venues. Union Pacific Railroad is withdrawing its 2015 application and asking that the County vacate its decision in

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the matter. The resolution recognizes the UPRR withdrawal and vacates the County's decision

Vice-Chair Schwartz thanked Ms. Campbell for all the work she has put into this issue. Chair Hege commented that a lot of time and resources have been spent on this and he is glad to put it behind us – this will take us back in time as though it never happened.

{{{Commissioner Kramer moved to approve Resolution 21-008 vacating the decision in the Wasco County Board of Commissioners Land Use Planning Case PLASAR-15-01-000. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Agenda Item – VSAC Funding Request

Veterans Services Advisory Committee Chair Mark Fortin said that he learned that many of the counties in Oregon are contributing to a project to create a Vietnam Memorial on the capitol grounds in Salem. The VSAC members took a vote and elected to bring a request forward to the Board of County Commissioners to donate $5,000 to this project. He stated that there is an estimated 2,454 veterans in Wasco County, 1,200 of those served during the Vietnam War. Those veterans collectively receive $10 million in health care benefits and over $11.2 million in compensation and pension benefits – a large portion of which is spent in Wasco County.

Chair Hege asked where those funds would come from. Mr. Stone said that they would have to come from the Veterans Service Office fund. Finance Director Mike Middleton stated that the funds are available but this early in the year, it is hard to predict the impact that expenditure would have on their budget overall. It is possible that it would require a budget change.

Commissioner Kramer asked why we cannot use Commissioner Funds to make that expenditure. Mr. Stone said that we try to keep expenditures in line with where they should come from. Commissioner Kramer said that he does not want to take funds from Veterans Services and would recommend a transfer from the Commissioners' funds to Veterans Services for the expenditure.

Vice-Chair Schwartz asked what the Commissioner's Fund is. Mr. Middleton said that it comes out of General Fund in the Administrative Budget. He asked if the Board wants to increase the Veterans Services budget and decrease another line.

Chair Hege suggested that staff can work out those details; the Board can move to make the contribution and allow staff to determine how to best do that.

Vice-Chair Schwartz said she agrees that it should not come out of the VSO fund. Chair Hege said that the Board can direct staff in that way; the Board has made it clear that the intent is not to negatively impact the Veterans Service Office Budget.

{{{Commissioner Kramer moved to expend $5,000 to the Vietnam War Memorial fund as requested by the Veterans Services Advisory Committee. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

The Board thanked Mr. Fortin for bringing this forward. Vice-Chair Schwartz noted that there are two Wasco County residents who died in the Vietnam War and they will be memorialized on the Wall in Salem.

Agenda Item – Shaniko City Council Appointments

County Clerk Lisa Gambee explained that the Clerk's office works on a regular basis with districts and cities and constantly tracks who is and is not on councils and boards in order to accurately populate ballots. She said that they receive resignation letters either from the city council/district board or directly from the member. Two weeks ago, the Clerk's office received mass resignations from the Shaniko City Council leaving only the Mayor of Shaniko in office. That occurrence left no quorum to conduct city business. Under that circumstance, the Mayor could call for a special election which would be paid for by the City. That is the approach that was taken last summer; all of the positions went back on the ballot in the November election. We are again faced with a lack of a quorum; last Tuesday, Shaniko Mayor Don Treanor presented his resignation which triggered the appointment process. The Board will need to appoint 3 people; those 3 will make appointments to fill the remaining council positions and then vote for a Mayor Pro-Tem. She added that they will have City Counsel to guide them.

Ms. Gambee went on to say that there are 4 qualified applicants to be considered; the Board will need to appoint 3 – those 3 may appoint the 4th applicant if they so choose.

Chair Hege asked if the most the Board can appoint is three. Ms. Gambee said statute directs that the governing body shall appoint the number sufficient to form a quorum, which in this case is three. The persons appointed shall appoint any remaining vacancies. The appointees serve until there is an election; these will

serve through 2022. Those elected in November of 2022 would start in January of 2023.

Shaniko City Counsel Christopher Crean thanked the Board and County staff for all their efforts in helping with this process.

Chair Hege said that the Board appreciates the applicants – folks are volunteering their time and should be commended for that. The City of Shaniko has a lot of unique history and has had a lot of contention, which can happen in small communities. The Board hopes that as Shaniko moves forward, it can do so in a way that creates some unity in the community. Wasco County wants to support that. There may be a need for some assistance such as mediation. He said there are resources to which we can connect the Council to help with effective communication that will move the community forward. He said he would encourage the Council to consider mediation to help keep the focus on what is best for Shaniko.

Commissioner Kramer echoed Chair Hege's thoughts. Shaniko is a community with a lot of potential. The appointees will be taking on responsibilities that have consequences. He encouraged them to work with City Counsel to get some help. He thanked all the applicants for stepping up and asked if the 3 applicants present at today's meeting (David Long, Don Treanor & Louis McKenzie) would appoint the 4th applicant.

The applicants present responded that it is a big question but could be possible.

{{{Commissioner Kramer moved to approve Orders 21-045, 21-046 and 21-047 appointing MaryJane Wright, Louis McKenzie and David Long to the Shaniko City Council. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Vice-Chair Schwartz thanked the applicants for their willingness to serve. Chair Hege reiterated his desire to see Shaniko prosper.

Ms. Gambee said she has been taking calls from citizens of Shaniko asking how they can pay their water bills. Mr. Crean said he would get them together very soon – hopefully early next week.

Ms. Gambee said that Ms. Clark will send copies of the appointment orders.

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Chair Hege stated that the County helps to fund 6 Rivers Mediation and he will have them standing by to help.

Agenda Item – Opioid Settlement

Ms. Campbell reminded the Board that this topic has been discussed at previous sessions. This is related to the nationwide opioid litigation. They are starting to reach agreements that will encompass non-litigating municipalities that decide to participate. This MOU is among the Oregon counties; in it counties agree to collaborate with one another in taking a position with the state that any proceeds from the settlement go directly to local governments. We have the boots on the ground and would best know how to utilize those funds. This is just to unite us in consensus of that position.

Chair Hege asked if all 36 Oregon counties are participating. Ms. Campbell replied affirmatively, saying that the vast majority have already signed – about 80%. The remaining are just waiting for scheduled meetings in order to approve the agreement. All counties have expressed their intent to sign.

Wasco County Prevention Coordinator Debby Jones commended the Board and County Counsel for being proactive and responsive to this issue.

{{{Commissioner Kramer moved to approve the Memorandum of Understanding between the Cities and Counties of Oregon Regarding Allocation of Potential Opioid Settlement Funds. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Discussion Item – Long-Term Care Proclamation

Chair Hege explained that this is a proclamation declaring October to be Long-Term Care Residents Rights Month.

{{{Vice-Chair Schwartz moved to approve the Proclamation of October 2021 as National Long-Term are Resident's Rights Month in Wasco County. Commissioner Kramer seconded the motion which passed unanimously. }}}

Discussion Item – Consent Agenda

{{{Commissioner Kramer moved to approve the Consent Agenda – 9.1.2021 Regular Session Minutes; ODFW Payment in Lieu of Taxes Notice; Juvenile Crime Prevention Grant Agreement #15692; and Hazard Mitigation Grant Authority Designation Resolution. Vice-Chair Schwartz seconded the motion which passed unanimously.}}}

Chair Hege commented that Oregon Fish and Wildlife owns over 30,000 acres of land in Wasco County on which they pay approximately $35,000 in lieu of paying

taxes.

Commission Call

Chair Hege reported that he and Administrative Services Director Matthew Klebes recently presented the QLife Strategic Plan to North Wasco County Public Utility District. He said that they would present to the Board of Commissioners at an upcoming session.

Vice-Chair Schwartz reported that a couple of weeks ago she spent a day with U.S. Forest Service District Ranger Kameron Sam on a tour of the Mt. Hood National Forest projects in Wasco County. She said she believes she now has a much better understanding of the work being done in the forest.

Vice-Chair Schwartz reminded the Board that at noon today there is a second housing round table and encouraged them to attend. She also noted that this is Fire Prevention week; people should be checking their smoke detector batteries. Chair Hege added that it is also a good time for those living in rural areas to create defensible space around their property.

Commissioner Kramer announced that at last week's District 3 meting he was re-elected Chair and through that position, has a project for the District 3 bylaws. He asked for comments on the percentage and 48 hour notice provisions of the bylaws; those comments should be sent to Ms. Clark as soon as possible as he has to report on Monday, October 11th.

Agenda Item – Executive Session – Consulting with Counsel

At 10:53 a.m. Chair Hege recessed from the Regular Session to open an Executive Session pursuant to ORS 192.660(2)(h) and instructed Representatives of the news media not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced.

The Regular session resumed at 11:10 a.m.

Chair Hege adjourned the session at 11:11 a.m.

Summary of Actions

MOTIONS

- **To approve Order 21-042 appointing William Lennox to the North Central Public Health District Board of Health**.

- **To approve Order 21-044 appointing Brian Lauterbach to the Wasco County Board of Property Tax Appeals.**
- **to approve Ordinance 21-001 in the matter of Amending the Wasco County Uniform Fee Schedule with the following changes:**
    - **National Scenic Area (NSA)**
        - **Expedited (Used listed in Section 3.110 of Wasco County NSALUDO) to be $1,332 instead of $1,960**
        - **Full Review to be $2,996 instead of $4,401**
- **To approve Resolution 21-008 vacating the decision in the Wasco County Board of Commissioners Land Use Planning Case PLASAR-15-01-000.**
- **To expend $5,000 to the Vietnam War Memorial fund as requested by the Veterans Services Advisory Committee.**
- **To approve Orders 21-045, 21-046 and 21-047 appointing MaryJane Wright, Louis McKenzie and David Long to the Shaniko City Council.**
- **To approve the Memorandum of Understanding between the Cities and Counties of Oregon Regarding Allocation of Potential Opioid Settlement Funds.**
- **To approve the Consent Agenda – 9.1.2021 Regular Session Minutes; ODFW Payment in Lieu of Taxes Notice; Juvenile Crime Prevention Grant Agreement #15692; and Hazard Mitigation Grant Authority Designation Resolution.**

Wasco County
Board of Commissioners

_____
Scott C. Hege, Commission Chair

_____
Kathleen B. Schwartz, Vice-Chair

_____
Steven D. Kramer, County Commissioner

DRAFT

CONSENT ITEM

9-1-1 Maintenance Agreements Renewals

STAFF MEMO

VESTA/MOTOROLA SUPPORT RENWEAL AND SERVICE AGREEMENT

MEMORANDUM

SUBJECT: 9-1-1 Communications Maintenance

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JOE DAVITT

DATE: OCTOBER 13, 2021

BACKGROUND INFORMATION:

The Oregon 911 Program pays for our phone system and all annual maintenance. We have been using Lumin (Century Link) but are moving to Day Wireless as our service provider for better customer support. This contract for the annual maintenance of our phone system is to advise the State 911 program of our current service provider and who will be the responsible person at Wasco County for the 911 equipment.

Quote Date: 3/9/2021
Quote No.: MSI3497003-1
Site No.: 104705
Account No: 0

MOTOROLA SOLUTIONS

Wasco County Communications, OR

Support Renewal 2021

Customer Information

Customer: Wasco County 911
Contact: Joe Davitt
Phone: 541.506.2760
E-Mail: joed@co.wasco.or.us

Vesta Solutions, Inc. Contact Information

Sales Support Specialist: Christine Sarmiento
Phone: 951-719-2134
E-Mail: Christine.Sarmiento@MotorolaSolutions.com

Account Rep: Shannon Hickey
Phone: 415-516-9145
E-Mail: Shannon.Hickey@MotorolaSolutions.com

VESTA® 9-1-1

Qty.	Part No.	Description	Unit Price	U/M	Total
		VESTA® 9-1-1 Servers			
2	04000-68005-RNWL	V-SVR BASIC RNWL SPT 1YR	$102.52	EA	**$205.04**
		VESTA® 9-1-1 Prime Standard Operations			
4	SS-0PR-VSSL-1Y	SPT VPRIME 1YR	$1,321.53	EA	**$5,286.12**
		VESTA® 9-1-1 IRR Module			
4	809800-35110	V911 IRR SW SPT 1YR	$222.29	EA	**$889.16**
		Peripherals & Gateways			
4	04000-00176	SW SPT ANALOG GATEWAY 1YR	$80.19	EA	**$320.76**
			VESTA 9-1-1 Subtotal		**$6,701.08**

Managed Services

Qty.	Part No.	Description	Unit Price	U/M	Total
		Security Management (SM)			
1	809800-00200	CFG NTWK DEVICE	$168.49	EA	**$168.49**
9	809800-16231	SEC MGMT 3.1 SVC 1YR	$505.47	EA	**$4,549.23**
			Managed Services Subtotal		**$4,717.72**

Quote Summary

PRODUCT	TOTAL
VESTA 9-1-1	**$6,701.08**
Managed Services	**$4,717.72**
MAIN QUOTE SUBTOTAL	**$11,418.80**
On Site Maintenance	**$10,800.00**
GRAND TOTAL	**$22,218.80**

Additional Comments

Quote is valid for 120 days from the date of this quote.

**Discount/Incentive Codes are provided for Vesta Solutions internal use only. Discount/Incentive Codes do not have to be ordered on customer PO's using the codes shown and instead can be applied as a bottom line discount.*

Any line items listed as "Optional" in this quote are not included in the Product Totals, Product Summaries, Site Totals, Quote Summary, or the Grand Total. These items are not considered to be part of the system. The "Grand Total" on the Quote Summary page reflects the quote value. This figure includes any and all applicable charges, fees, and or discounts. Costs for actual freight will be added to your invoice. All pricing is in U.S. Dollars unless otherwise stated.

Strategic Incentives, Discounts, etc.:
Any strategic incentives, discounts, etc. that are applied to this quote are based on the purchase of all non-optional items listed within the quote. If the quote should change or if items are removed, the incentive is subject to change.

Budgetary Quotes:
Quotes marked Budgetary are nonbinding and subject to change. This quote is being provided as an estimate of approximate pricing and cannot serve as the basis for any order.

Support Renewals:
If this is a first time renewal and is subject to the agreed upon grace period, then reinstatement fees will not apply as long as the PO is received prior to the expiration of the grace period. For questions regarding your support renewal term, please contact Jennifer York at 951-719-2142.

Software Support Start and End Dates are based on active software support agreements. Dates and pricing are subject to change once existing software support agreements expire.

Implementation services
Field engineering, training and project management units are based on the scope and estimated effort as presented during the Quote preparation. Change orders would be required during a scope or responsibility change between Customer and Vesta Solutions.

Please refer to the Terms & Conditions tab for additional information related to this Quote.

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MOTOROLA SOLUTIONS

SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-1442691
Contract Number: USC000351964
Contract Modifier:

Date: 03/25/2021

Company Name:	Wasco County Communications
Attn:	
Billing Address:	425 EAST 7TH STREET
City, State, Zip:	THE DALLES , OR, 97058
Customer Contact:	Joe Davitt
Phone:	541-506-2760

Required P.O. :	
Customer # :	1209629154
Bill to Tag # :	
Contract Start Date :	30-Sep-2021
Contract End Date :	29-Sep-2022
Anniversary Day :	Sep 29th
Payment Cycle :	ANNUALLY
PO # :	

Qty	Service Name	Service Description	Extended Amt
	SVC02SVC0092A	VESTA MANAGED SERVICES	$4,717.72
	LSV00S01699A	VESTA ONSITE-STD	$10,464.00
	SVC02SVC0082A	VESTA SOFTWARE FIRMWARE SUPPORT	$6,701.08
	LSV00S00117A	911 DISPATCH SERVICE	$336.00

Subtotal - Recurring Services	$1,851.57	$22,218.80
Subtotal - One-Time Event Services	$0.00	$0.00
Total	$1,851.57	$22,218.80

THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA

SPECIAL INSTRUCTIONS:

I received Statements of Work that describe the services provided on this Agreement. Motorola's Service Terms and Conditions, a copy of which is attached to this Service Agreement, is incorporated herein by this reference.

AUTHORIZED CUSTOMER SIGNATURE | TITLE | DATE

CUSTOMER (PRINT NAME)

Jeff Bauman | Solutions Advisor | 03/26/2021

MOTOROLA REPRESENTATIVE(SIGNATURE) | TITLE | DATE

MOTOROLA SOLUTIONS

SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-1442691
Contract Number: USC000351964
Contract Modifier:

Jeffrey Bauman	312-898-0840
MOTOROLA REPRESENTATIVE(PRINT NAME)	PHONE

Company Name : WASCO COUNTY COMMUNICATIONS
Contract Number : USC000351964
Contract Modifier :
Contract Start Date : 30-Sep-2021
Contract End Date : 29-Sep-2022

MOTOROLA SOLUTIONS

SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-1442691
Contract Number: USC000351964
Contract Modifier:

Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

Section 1. APPLICABILITY
These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION
2.1 "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2 "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3 "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE
Customer accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES
4.1 Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2 If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed

4.3 If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4 All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5 Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6 If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7 Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this.

Section 5. EXCLUDED SERVICES
5.1 Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2 Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

MOTOROLA SOLUTIONS

SERVICE AGREEMENT

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Quote Number : QUOTE-1442691
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Contract Modifier:

Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

Section 8. INVOICING AND PAYMENT

8.1 Customer affirms that a purchase order or notice to proceed is not required for the duration of this service contract and will appropriate funds each year through the contract end date. Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date

8.2 Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity. The Customer will pay all invoices as received from Motorola. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

8.3 For multi-year service agreements, at the end of the first year of the Agreement and each year thereafter, a CPI percentage change calculation shall be performed using the U.S.Department of Labor, Consumer Price Index, all Items, Unadjusted Urban Areas (CPI-U). Should the annual inflation rate increase greater than 3% during the previous year, Motorola shall have the right to increase all future maintenance prices by the CPI increase amount exceeding 3%. All items, not seasonally adjusted shall be used as the measure of CPI for this price adjustment. Measurement will take place once the annual average for the new year has been posted by the Bureau of Labor Statistics. For purposes of illustration, if in year 5 the CPI reported an increase of 8%, Motorola may increase the Year 6 price by 5% (8%-3% base).

Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION

10.1 If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2 Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

10.3 If the Customer terminates this Agreement before the end of the Term, for any reason other than Motorola default, then the Customer will pay to Motorola an early termination fee equal to the discount applied to the last three (3) years of Service payments for the original Term.

Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement.

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-1442691
Contract Number: USC000351964
Contract Modifier:

ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1 This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2 Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1 Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2 Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3 This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

Section 17. GENERAL TERMS

17.1 If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2 This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed.

17.3 Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

MOTOROLA SOLUTIONS

SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-1442691
Contract Number: USC000351964
Contract Modifier:

17.4 Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5 Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6 Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7 THIS AGREEMENT WILL RENEW, FOR AN ADDITIONAL ONE (1) YEAR TERM, ON EVERY ANNIVERSARY OF THE START DATE UNLESS EITHER THE COVER PAGE SPECIFICALLY STATES A TERMINATION DATE OR ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. At the anniversary date, Motorola may adjust the price of the Services to reflect its current rates.

17.8 If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

AGENDA ITEM

Wasco County Land Use & Development Ordinance Hearing

- STAFF REPORT
- CHAPTER 2 – DEVELOPMENT APPROVAL PROCEDURES
- CHAPTER 2 QUICK COMPARISON
- CHAPTER 3 EPD REVISIONS
- CHAPTERS 21 & 22 REVISION NOTES
- ORDINANCE 21-002
- STAFF PRESENTATION

PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • **f:** [541] 506-2561 • www.co.wasco.or.us

Pioneering pathways to prosperity.

WASCO COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA PACKET

FOR

Hearing Date: October 20, 2021

Hearing Time: 10:00 am

Hearing Location: Electronically via Zoom
Meeting ID: 395 773 4524#

HEARING #2 DETAILS: File # 921-21-000167-PLNG - an update to the Wasco County Land Use and Development Ordinance Chapters 2, 21, and EPDs 4-7, 9-10, 12 and 14.

PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • f: [541] 506-2561 • www.co.wasco.or.us

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MEMORANDUM TABLE OF CONTENTS

Date: October 7, 2021
To: Wasco County Board of County Commissioners
From: Wasco County Planning Office
Subject: Submittal for hearing dated October 20, 2021
Re: **Wasco County Land Use and Development Ordinance Update**

Item	Page
Staff Report #921-21-000167 – Legislative Request to Amend County LUDO	BOCC 2 - 1
Chapter 2 – Development Approval Procedures - Attachment A	BOCC 2 - 13
Chapter 2 Quick Comparison – Attachment B	BOCC 2 - 50
Draft Cover Sheet and Chapter 3 EPD Revisions – Attachments C & D	BOCC 2 - 52
Chapter 21 and 22 Revision Notes	BOCC 2 - 102
Wasco County Ordinance 21-002	BOCC 2 - 170
Planning Department County LUDO Update PowerPoint Presentation	BOCC 2 - 172

PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • **f:** [541] 506-2561 • www.co.wasco.or.us

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FILE #: 921-20-000167

REQUEST: **Legislative Request to Amend the Land Use and Development Ordinance**

DECISION:

Attachments:

1. Attachment A: Draft of proposed updates to Wasco County Land Use and Development Ordinance Chapter 2 Development Approval Procedures.

2. Attachment B: Comparison chart of current Chapter 2 Development Approval Procedures and proposed Chapter 2 Development Approval Procedures differences with notes on impetus for change

3. Attachment C: Summary of proposed Chapter 3 EPD changes with notes on impetus for the change.

4. Attachment D: Draft of proposed changes to Wasco County Land Use and Development Ordinance Chapter 3; Section 3.770 – EPD 4 Cultural, Historic, and Archaeological Overlay, Section 3.800 – EPD 5 Mineral and Aggregate Overlay, Section 3.900 – EPD 6 Reservoir Overlay Zone, Section 3.910 – EPD 7 Natural Areas Overlay, Section 3.930 – EPD 9 Big Muddy Limited Use Overlay, Section 3.940 – EPD 10 Badger Creek Limited Use Overlay, Section 3.960 – EPD 12 Sensitive Bird Site Overlay, and Section 3.980 – EPD 14 Camp Morrow Limited Use Overlay.

5. Attachment E: Summary of proposed Chapter 21 Land Divisions changes with notes on impetus for the change.

6. Attachment F: Draft of proposed changes to Wasco Land Use and Development Ordinance Chapter 21 Land Divisions.

7. Attachment G: Draft of proposed changes to Wasco County Land Use and Development Ordinance, adding Chapter 22 Road Standards.

File Number:	921-20-000167
Request:	Amend the Wasco County Land Use and Development Ordinance 1. Revisions to Chapter 2 2. Revisions to EPDS 4-7, 9-10, 12, & 14 3. Revisions to Chapter 21 4. Adding new Chapter 22 (Road Standards)
Prepared by:	Kelly Howsley Glover, Long Range Planner Isaak Staats, Long Range Assistant Planner
Prepared for:	Wasco County Planning Commission
Applicant:	Wasco County Planning Department
Staff Recommendation:	Recommend the Wasco County Planning Commission recommend adoption of the proposed amendments of the Wasco County Land Use and Development Ordinance to the Wasco County Board of Commissioners
Planning Commission Hearing Date:	September 7th, 2021
Board of County Commissioner Hearing Dates:	October 20 and November 3
Procedure Type:	Legislative

Attachments:

1. Attachment A: Draft of proposed updates to Wasco County Land Use and Development Ordinance Chapter 2 Development Approval Procedures.

2. Attachment B: Comparison chart of current Chapter 2 Development Approval Procedures and proposed Chapter 2 Development Approval Procedures differences with notes on impetus for change

3. Attachment C: Summary of proposed Chapter 3 (EPD) changes with notes on impetus for the change.

4. Attachment D: Draft of proposed changes to Wasco County Land Use and Development Ordinance Chapter 3; Section 3.770 – EPD 4 Cultural, Historic, and Archaeological Overlay, Section 3.800 – EPD 5 Mineral and Aggregate Overlay, Section 3.900 – EPD 6 Reservoir Overlay Zone, Section 3.910 – EPD 7 Natural Areas Overlay, Section 3.930 – EPD 9 Big Muddy Limited Use Overlay, Section 3.940 – EPD 10 Badger Creek Limited Use Overlay, Section 3.960 – EPD 12 Sensitive Bird Site Overlay, and Section 3.980 – EPD 14 Camp Morrow Limited Use Overlay.

5. Attachment E: Summary of proposed Chapter 21 Land Divisions changes with notes on impetus for the change.

6. Attachment F: Draft of proposed changes to Wasco Land Use and Development Ordinance Chapter 21 Land Divisions.

7. Attachment G: Draft of proposed changes to Wasco County Land Use and Development Ordinance, adding Chapter 22 Road Standards.

APPLICABLE CRITERIA LIST

Wasco County LUDO

A. LUDO Section 2.200 - Additional Hearing Notification Requirements

B. LUDO Section 9.050 - Amendments to the Zoning Ordinance

C. LUDO Section 9.060 - Recommendation on Zone Change or Amendment to the LUDO

D. LUDO Section 9.070 - Notice of Planning Commission Recommendation

E. LUDO Section 9.080 - Action by County Governing Body

F. ORS 197.175 – Cites' and counties' planning responsibilities

G. ORS 197.307 Effect of need for certain housing in urban growth areas

H. ORS 197.610 - Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development (consistent with OAR 660-018-0020)

I. ORS 197.612 - Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule

J. ORS 197.615 - Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development

2. SUBMITTED COMMENTS

No comments submitted to date.

3. PUBLIC INVOLVEMENT

In addition to the public hearings required by this legislative process to allow for public testimony and the ability to provide written comment, Wasco County has included the following additional measures to ensure the process is open to the public:

A. Newspaper Notifications

Planning Commission Public Hearing April 6, 2021:
Public notice for a Planning Commission hearing was published in *The Dalles Chronicle* on March 17, 2021, 20 days prior to the April 6, 2021 hearing.

Planning Commission Public Hearing August 3, 2021:
Public notice for a Planning Commission hearing was published in *The Dalles Chronicle* on July 14, 2021, 20 days prior to the August 3, 2021 hearing.

Planning Commission Public Hearing September 7, 2021:

Public notice for a Planning Commission hearing was published in *The Dalles Chronicle* on August 18, 2021 more than 15 days prior to the September 7, 2021 hearing.

Board of County Commissioners Hearing October 20, 2021:
Public notice for a Planning Commission hearing was published in *Columbia Gorge News* on October 13, 2021 7 days prior to the October 20, 2021 hearing.

B. Mailed Notice

On August 9, 2021, a mailed notice was sent to all residents in unincorporated Wasco County, outside the National Scenic Area. The notice informed them of a general summary of updates, the date of the September hearing, and where to find more information.

C. Information Available on Website

The information regarding the proposed amendments was placed on the Wasco County Planning Department Website[1] starting in January 2021. If updates are made following each hearing, the webpage will be updated to reflect such changes. At the time of publication of this document, the following information was made available to the public:

- A listing of hearing dates, times and locations
- Drafts of the proposed amendments
- Staff report describing the process and proposed changes
- A way to submit comments and concerns

In addition, the Wasco County Land Use and Development Ordinance Update website[2] has short explainer videos, one-sheet summaries, drafts of the proposed updates, surveys, and questionnaires. Other key functions of the project website include the Ask A Planner, Submit A Comment, and Get Email Updates features, encouraging quick and easy communication by the public. In the first six months of 2021, the project website was visited 2,972 times, and has 57 subscribers that receive notification of new content.

D. Notification to Partners

An email notification of proposed amendments and the legislative hearing information was sent to the partner agency notification list on August 31st. The notification included links to the staff report, proposed amendments, and the opportunity to comment.

E. Notification to Community Notification List

During the Wasco County 2040 update, a public email notification list was assembled. Those registered were given the opportunity to opt out, or elect to continue being on the list for the LUDO Update. The current list consists of those who continued to be on the list.

[1] http://co.wasco.or.us/departments/planning/index.php
[2] www.Wasco2040.com

Members of the public continue to have the opportunity to sign up for this list at any time on the project website[3]. They can also request to be put on the list via email, telephone, or in the Planning Department Office. Currently this list includes 158 interested parties from the community.

An initial email was sent to the notification list informing them of the LUDO Update on April 5, 2021. An email was also sent to the notification list informing them of public outreach events on April 19th, May 10th, and May 24th. Due to the revised timeline, another email notification was sent to the list on June 21, 2021. An email was sent to this list on July 20th informing citizens of the hearing schedule. The notification included links to the proposed amendments, and information on how to provide comment.

F. Notice of Recommendation

Consistent with the Wasco County Land Use and Development Ordinance (LUDO) Section 9.070 and 9.080, a Notice of Planning Commission Recommendation was emailed to all hearing participants on September 8, 1 day after the hearing and 43 days before the Board of County Commissioner Hearing.

G. OTHER PUBLIC OUTREACH

In addition to the public meetings, social media content helped to promote engagement with the work tasks and solicit additional input. Any comments or other feedback were compiled and analyzed by staff and used to inform the development of the new policy and implementation strategies. This report was made publicly available during the September 7th hearing.

4. FINDINGS

A. *LUDO Section 2.200 - Additional Hearing Notification Requirements*

A. Notice

1. ***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.***

2. ***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***

[3] https://wasco2040.com/contact/

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)

FINDING: Notice was sent to public agencies, including ODOT, and local jurisdictions on July 21, 2021. Staff received no comments.

The proposal does not include a new transportation facility or improvement. Staff finds this criterion has been met.

3. Within ten (10) days of the final Planning Commission hearing, the Director of Planning or their assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: On September 8, 2021, 1 day after the Planning Commission hearing, the Planning Director issued notice to those who signed in and testified at the hearing of the recommendation of the Planning Commission and next steps. Staff finds this criterion has been met.

B. ***LUDO Section 9.050 - Amendments to the Zoning Ordinance***
Amendments to this Ordinance may be initiated as follows:

A. By resolution of the County Governing Body referring a proposed amendment to the Planning Commission for its consideration, report and recommendations;

B. By a majority vote of the Planning Commission confirmed by the Wasco County Governing Body;

C. By request of the Director of Planning or the District Attorney to conform the Ordinance to changes in the State Law;

FINDING: The Ordinance Amendment was initiated by the Planning Director to conform the Wasco County Land Use and Development Ordinance to changes in State Law and changes resulting from Wasco County Periodic Review. Staff finds this criterion has been met.

C. ***LUDO Section 9.060 - Recommendation on Zone Change or Amendment to the LUDO***
After hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his Chapter 9 – Zone Change & Ordinance Amendment – Wasco County Land Use and Development Ordinance 4 assistants shall reduce to writing the Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

FINDING: Amendments to the Land Use and Development Ordinance were heard by the Planning Commission on September 7th. The Board of County Commissioners will hold two hearings, one in October and one in November, to review the proposed amendments. Following the hearing, staff will reduce to writing the Commission's recommendation, along with a brief statement of facts and reasons upon which the recommendation will be based.

D. ***LUDO Section 9.080 - Action by County Governing Body***

Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

FINDING: The Board of County Commissioners is scheduled to hear the proposed Land Use and Development Ordinance amendments on October 20, 2021, 42 days after the Planning Commission hearing. The Notice of Planning Commission Recommendation was emailed on September 8, one day after the hearing. Staff finds this criterion is met.

E. ORS 197.175 - Cities' and counties' planning responsibilities

(2)Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

…

(b). Enact land use regulations to implement their comprehensive plans;

FINDING: Proposed revisions are intended to implement critical components of the updated Wasco County Comprehensive Plan.

Generally, this includes the following policies: Policy: 2.1.2 Comprehensive plans and implementing ordinances shall be consistent with the statewide goals and guidelines as well as the needs and desires of citizens in the County; Policy 2.1.4 Increase public awareness of the planning process and plan implementation; Policy 5.4.1 The White River will be protected consistent with the White River Management Plan and OAR 660-023-0120; Policy 5.5.1 The Deschutes and John Day Scenic Waterways shall be maintained and protected consistent with respective management plans and OAR 660-023-0130; Policy 5.8.1 Protect identified natural areas from conflicting uses and activities; Policy 5.11.1 implementation j. The Planning Director, or designee, shall have authority of review of applications related to historical, cultural and archaeological landmarks and sites including development review and demolition or modification; Policy 5.12.2 Consider impacts of new open space to public facilities and services as part of development review; Policy 12.1.5 Maintain the safety, physical integrity, and function of the County transportation network; Policy 12.1.6 Ensure transparency of infrastructure requirements and ongoing costs for future development; Policy 14.1.3 implementation a. Reduce the number of serial partitions where development occurs without planned development approaches through strategic methods like requiring partitions which one or more lots could be further divided, to exceed a total of four or more potential lots, to meet subdivision standards; Policy 14.1.3 implementation b. Ensure ongoing maintenance of open space and road systems through deed restrictions and HOA requirements; and Policy 14.1.5 Subdivision and partitioning activities shall be designed to reduce the County's financial participation in road construction within development areas.

The revisions meant to implement specific implementation measures and policies of the Comprehensive Plan can be found highlighted in Attachments B, C and E. This includes the following: removal of the zoning map criteria in Chapter 2, as it is redundant with Chapter 9 and Chapter 15 of the Comprehensive Plan; requiring serial partitions to go through the subdivision process, consistent with Policy 14.1.3 and 14.1.5; revising public open space criteria to require a maintenance agreement consistent with Policy

14.1.3 b; adding a waiver of remonstrance into Chapter 22 for road construction consistent with Policy 12.1.6 and Policy 14.1.5; removal of mentions of the Historic Landmarks Commission consistent with Policy 5.11.1; and clarifying the scope of EPD 7 consistent with Policy 5.4.1, Policy 5.5.1 and Policy 5.8 and the ESEE analysis included in the Comprehensive Plan update.

ORS 197.307 Effect of need for certain housing in urban growth areas

…

(4)Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(a)May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b)May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(5)The provisions of subsection (4) of this section do not apply to:

(a)An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(b)An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6)In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a)The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b)The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c)The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7)Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a)Set approval standards under which a particular housing type is permitted outright;

(b)Impose special conditions upon approval of a specific development proposal; or

(c)Establish approval procedures.

FINDING: The drafts were reviewed by a consulting land use attorney to ensure consistency with the clear and objective requirement for housing regulation. As a result, staff is proposing to revise language relating to flag lot standards, remove ambiguous language like "necessary due to the nature of development" or "shall be avoided". Language has been replaced with clear and objective standards to ensure consistency with ORS 197.307. Staff finds these criteria have been met.

ORS 197.610 - Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

> ***(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.***
>
> ***(3) Submission of the proposed change must include all of the following materials:***
>
> ***(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;***
>
> ***(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;***
>
> ***(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;***
>
> ***(d) The date set for the first evidentiary hearing;***
>
> ***(e) The form of notice or a draft of the notice to be provided under ORS 197.763 (Conduct of local quasi-judicial land use hearings), if applicable; and***

(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.

FINDING: On August 2, 2021, Staff submitted a notice of proposed land use regulations (Form 1) to Oregon's Department of Land Conservation and Development (DLCD) via PAPA Online. Staff received confirmation on August 2 via email that the packet was received.

The packet submitted with the completed Form 1 included the following: a narrative on form 1 summarizing the proposed changes; drafts of the proposed updates to Chapter 2, Chapter 3 (Environmental Protection Districts 4-7, 9-10, 12, & 14), Chapter 21, and the creation of Chapter 22 (Road Standards); a memo describing that the staff report we would be available on the County website 7 days before the September 7th hearing; and the newspaper notice regarding the legislative hearing on September 7th.

The proposed changes do not geographically affect existing or proposed plan and zone designations; therefore, no map was included.

This information was submitted 36 days before the September 7th hearing, as required.

Staff finds the criteria have been met.

E. ***ORS 197.612 - Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule***

Notwithstanding contrary provisions of state and local law, a local government that proposes a change to an acknowledged comprehensive plan or a land use regulation solely for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal or rule of the Land Conservation and Development Commission implementing the statutes or goals may take action to change the comprehensive plan or the land use regulation without holding a public hearing if:

(a) The local government gives notice to the Department of Land Conservation and Development of the proposed change in the manner provided by ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development) and 197.615 (Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development); and

(b) The department confirms in writing that the only effect of the proposed change is to conform the comprehensive plan or the land use regulations to the new requirements.

(2) Notwithstanding the requirement under ORS 197.830 (Review procedures) (2) that a person must have appeared before the local government orally or in writing, a person that has not appeared may petition for review of the decision under subsection (1) of this section solely to determine whether the only effect of the local decision is to conform the comprehensive plan or the land use regulation to the new requirements. [2011 c.280 §6]

FINDING: The proposed revisions do include amendments based on changes to state law. However, the proposed revisions also are a result of Periodic Review or changes initiated by stakeholder and public feedback. As a result, the proposed revisions do not meet ORS 197.612 criteria for allowing changes without a public hearing.

The first evidentiary hearing is scheduled before the Wasco County Planning Commission on September 7th.

Based on the above, staff finds this criteria is not applicable.

F. ***ORS 197.615 - Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development***

When a local government adopts a proposed change to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the decision to the Director of the Department of Land Conservation and Development within 20 days after making the decision.

(2) The submission must contain the following materials:

(a) A copy of the signed decision, the findings and the text of the change to the comprehensive plan or land use regulation;

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;

(c) A brief narrative summary of the decision, including a summary of substantive differences from the proposed change submitted under ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development) and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the actual change; and

(d) A statement by the individual transmitting the submission, identifying the date of the decision and the date of the submission.

FINDING: The final hearing is tentatively scheduled for November 3. If approved, staff will submit to the Department of Land Conservation and Development the changes via PAPAOnline, along with a copy of the signed decision, finding and the text of the change, and a brief narrative of the decision. Included on the forms required by DLCD will be a statement identifying the date of decision and submission.

CHAPTER 2 - DEVELOPMENT APPROVAL PROCEDURES

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Section 2.010 - Purpose

The purpose of this Chapter is to establish uniform procedures for review of land use applications and other actions required by this Ordinance, appeals from aggrieved persons and parties, and review of any decision by a higher authority. This chapter, in conjunction with other chapters of the Land Use and Development Ordinance, implements the goals and policies of the Wasco County Comprehensive Plan as authorized by Chapters 92, 197 and 215 of the Oregon Revised Statutes.

Section 2.020 - Review Authorities

A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding development and land use actions and legislative changes. Table 2.1 lists the development and land use actions and legislative changes that are provided by this Ordinance and establishes:

   1. The review authority charged with making the initial decision;

   2. The review authority charged with making the decision on appeal, if any;

   3. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.

Section 2.030 – Pre-Application Conference

A. Purpose: Pre-application conferences are intended to provide applicants with an opportunity to meet with county staff to discuss proposed projects in order to: familiarize applicants with the substantive and procedural requirements of this ordinance; to provide for an exchange of information regarding applicable elements of

the Comprehensive Plan, and development standards; to identify policies and regulations that create opportunities or pose significant constraints for the proposal; and to discuss procedures prior to filing a land use permit application.

B. Applicability: A pre-application conference is required for all applications the Planning Director determines to be complex enough to necessitate it. This includes but is not limited to larger scale commercial energy projects, subdivisions, planned unit developments, and reviews that involve numbers of County departments and other agencies.

C. Submittal Requirements: Pre-application conference requests shall include all the applications components detailed in Section 2.040 (B).

D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference and coordinate the involvement of other County departments, as appropriate.

E. Report: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written report of the conference. The purpose of the written report is to provide a preliminary assessment of the proposal, but shall not be deemed to be a land use decision or recommendation by the County or any other outside agency or service provider on the merits of the proposal.

F. Validity Period: A pre-application conference is valid for the rules that apply at the time of the request. The subsequent land use application is subject to the regulations in effect at the time of application.

Section 2.040 - Application Submittal and Completeness Review

A. Initiation of Action:

1. Type I, II, & III development requests may be initiated by:

a. The owner(s) of record; or

b. Any person authorized by owner(s) of record to act on the authority of the property owner; or

c. Contract purchaser, or lessee of such property, who submits a duly executed written contract; or

d. Person or entity authorized by resolution of the County Governing Body; or

e. A Wasco County Department or public utility agency when dealing with development necessary for public service.

2. Type III quasi-judicial application to amend the Comprehensive Plan text, inventories, maps or figures of the plan; amend a portion of the Comprehensive Plan Land Use Designation map; amend an urban growth boundary; request a zone change or combination of zone change and plan amendment may be initiated by:

   a. The owner(s) of record; or

   b. Any person authorized by owner(s) of record to act on the authority of the property owner.

   c. By resolution of the Board of County Commissioners referring to the Planning Commission a proposal therefore;

   d. By a majority vote of the Planning Commission confirmed by the Board of County Commissioners;

   e. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan or to eliminate spot zoning.

   f. These applications are subject to Chapter 15 of the Wasco County Comprehensive Plan.

3. Type IV applications for an amendment to one or more policies of the Comprehensive Plan, amend the text, inventories, maps or figures of the plan; amend a portion of the Comprehensive Plan Land Use Designation map; amend this Ordinance; amend the urban growth boundary; or to amend a combination plan change and zone amendment may be initiated by:

   a. By resolution of the Board of County Commissioners,

   b. By a majority vote of the Planning Commission, confirmed by the Board of County Commissioners,

   c. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan or to eliminate spot zoning.

   d. These applications are subject to Chapter 15 of the Wasco County Comprehensive Plan.

B. Application Submittal: Type I, II, and III permit applications are subject to the following submittal requirements for an application to be deemed complete:

1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

   a. The names, mailing addresses, email addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

   b. The address of the subject property, if any, and its map and tax lot number;

   c. The Wasco County tax identification number;

   d. The size of the subject property;

   e. The Comprehensive Plan designation and zoning of the subject property;

   f. The type of application being submitted;

   g. A description of the proposal;

   h. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application; and

   i. Anything required by the underlying zone or review use as determined by staff.

C. An applicant may apply for all permits necessary for a development project at one time. If the applications involve different review processes, they will be heard and decided under the higher review procedure. The consolidated procedure shall be subject to the time limitations set out in this chapter.

D. After submittal of an application, the request shall be reviewed for completeness as follows:

1. Except as otherwise provided in ORS 215.427, the application shall be reviewed for completeness within 30 days of receipt.

2. Determination of completeness shall be based upon the submittal requirements of Subsection 2.040.B of this Chapter. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

3. The County shall begin reviewing the application after it is deemed to be complete.

4. Pursuant to ORS 215.427(2), if an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:

    a. All of the missing information;

    b. Some of the missing information and written notice from the applicant that no other information will be provided; or

    c. Written notice from the applicant that none of the missing information will be provided.

5. The application will be reviewed for consistency with the rules in effect on the date the application was submitted.

6. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and either has not submitted the required information or provided written notice that the information will not be provided.

Section 2.050 - Filing Fees

All fees related to land use actions are established by Wasco County Board of County Commissioners Order separately from this Ordinance, and are revised, typically, on an annual or as necessary basis. All fees received are deposited in the County General Fund, are not transferable, and may not be refundable.

A. Any application or appeal filed with the Planning Department shall be accompanied by the appropriate filing fee.

B. Pursuant to ORS 215.416(1), fees shall not exceed the actual or average cost of providing the service.

C. Receipt of an application is the date in which an application is submitted and accepted by the Planning Director. Accepted applications shall be deemed “incomplete” for failure to submit the required fee, including return of checks unpaid or other payment processing failure.

D. Fees are not transferable. Copies of a purchase order or check for payment of an application or appeal are not acceptable. True payment must be paid prior to the expiration of an appeal period, or prior to acceptance of an application.

E. An application or appeal filing fee may be waived by the Board of County Commissioners for governmental agencies or nonprofit groups, or upon satisfactory showing that an applicant is without means and is unable to pay the established fee. Said waiver shall be approved by the Board of County Commissioners prior to submitting an application or appeal to the Planning Office.

Section 2.080 - Final Action on Permit or Zone Change Application

A. Pursuant to ORS 215.427(1), for land within an urban growth boundary and applications for mineral aggregate extraction, the County shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after determining the application is complete.

B. Pursuant to ORS 197.311, the review authority shall take final action on qualifying residential developments including resolution of all local appeals under ORS 215.422, within 100 days after the application is deemed complete.

C. Pursuant to ORS 215.427(1), the review authority shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after determining the application is complete.

D. Time period extensions and refund criteria are provided within ORS 215.427.

TABLE 2-1: REVIEW PROCEDURES SUMMARY				
Overlay zones may modify the review procedure.			**Review Authority**	
Common Land Use Permits/Actions	**Review Procedure Type**	**Public Notice**	**Initial Decision Review Authority**	**Appeal Review Authority**
Structural Without Land Use Application	I		PD	NA
Land Use Verification Letter	I		PD	NA
Ministerial Non Structural	I		PD	NA
Temporary Use Renewal	I		PD	NA
Preliminary Boundary Line Adjustment	I		PD	NA
Preliminary Replat	I		PD	NA
Final Plat Review	I		PD	NA
Telecommunications Tower - Collocation	I		PD	NA
Administrative Variances	II		PD	PC
Temporary Use Permits	II		PD	PC
Preliminary Partition/Replat (Not involving public or private roads)	II		PD	PC
Site Plan Reviews	II		PD	PC
Uses Permitted Subject to Standards	II		PD	PC
Significance Determination for Aggregate Overlay	II		PD	PC
Non-Conforming Use Verification, Restoration, or Alteration	II		PD	PC
Preliminary Partition/Replat (Involving public or private roads approval)	III	X	PC	BOCC
Preliminary Property Line Adjustment (Involving public or private road approval)	III	X	PC	BOCC
Conditional Use Review	III	X	PC	BOCC
Subdivision (Preliminary and Final Plat Approval)	III	X	PC	BOCC
Planned Unit Development (Preliminary and Final Plat Approval)	III	X	PC	BOCC
Mobile Home/Recreational Vehicle Parks	III	X	PC	BOCC
Division of Non Resource Land in Designated Resource Areas	III	X	PC	BOCC
Variance	III	X	PC	BOCC
Private Road Approval	III	X	PC	BOCC
Recommendation to BOCC on public road dedications	III	X	PC	BOCC
Revocation of Conditional Use Permits	III	X	PC	BOCC
Quasi-Judicial Plan Amendment or Zone change request	III	X	BOCC (Recomm. from PC)	LUBA
Legislative Zone Map Amendment	IV	X	BOCC (Recomm. from PC)	LUBA (PAPA), DLCD (Periodic Review)
Legislative Ordinance Amendment	IV	X	BOCC (Recomm. from PC)	LUBA (PAPA), DLCD (Periodic Review)
Appeal to Board of Commissioners	IV		BOCC	LUBA

Section 2.090 - Review Procedures (Notice, Decision, & Appeal)

All land use applications will be reviewed by the County in accordance with Chapters 92, 197 and 215 of the Oregon Revised Statutes (ORS), and any applicable Oregon Administrative Rule (OAR). To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to local, state and federal agencies, County departments, and County designated Citizen Advisory Groups. A list of applicable local, state and federal agencies and entities shall be maintained by the Planning Director.

Review procedures for the four review types are described as follows:

A. Type I Nondiscretionary Review Procedures (Development Permit):

1. Notice of Application: Notice of the application to the public is not provided.

    a. A public hearing is not provided for Type I Permits.

2. Decision: The Planning Director shall approve or deny the application based on the applicable standards and approval criteria, and issue a decision.

    a. The Planning Director has discretion to determine the form of Type I Permit decisions.

3. Notice of Decision: A copy of the decision shall be provided to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof by either electronic or postal mail.

4. Appeal: The Planning Director's decision is the County's final decision and may be appealed as provided by law for a non-discretionary decision.

B. Type II Administrative Review Procedures (Development Permit)

1. Notice is not required for all Type II Development Permits. Table 2-1 provides a comprehensive list of land use proposals that require a notice of pending administrative decision before a decision is issued by the Planning Director or other authorized review authority.

2. Notice of Pending Administrative Decision: 12 days prior to the issuance of a decision, written notice of application shall be mailed to:

    a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. Pursuant to ORS 215.416(11)(c), all property owners on the most recent property tax assessment roll:

   i. Within 100 feet of the property that is the subject of the notice where the property is wholly or in part within an urban growth boundary;

   ii. Within 250 feet of the property that is the subject of the notice where the property is outside an urban growth boundary and not within a farm or forest zone; or

   iii. Within 750 feet of the property that is the subject of the notice where the property is within a farm or forest zone;

c. In addition to notice required under Section 2.b of this section, notice of a replat shall be provided to all current owners of property within the boundary of the replat;

d. Any active community planning organization, if the subject property lies wholly or partially inside the boundaries of such organization;

e. Cities within whose recognized Urban Growth Boundary the subject property lies or whose facilities may be impacted, and as prescribed in applicable urban growth management agreements;

f. A government agency or public district within whose boundary the subject property is located such as county departments, Sheriff's Office, fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. These agencies or districts typically include, but are not limited to, the Department of Environmental Quality, Oregon Department of Transportation, Oregon Department of Agriculture, Oregon Fish and Wildlife, the Department of Defense and other applicable local, state or federal agencies;

g. Persons who requested to be notified of any land use actions;

k. Other departments required by the provisions of applicable Zones and Environmental Protection Districts;

l. 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, or if required by ORS 197.183, ORS 215.223, or ORS 215.416.

3. Additional Notice of Pending Administrative Decision Requirements: The following notification requirements are in addition to those set forth in Section 2.090.B.1 of the Chapter.

    a. Pursuant to ORS 215.418, notice shall be provided to Department of State Lands (DSL) within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory provided by DSL;

        i. Subdivisions;

        ii. Building permits for new structures;

        iii. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;

        iv. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and

        v. Planned unit development approvals.

4. At a minimum, the Notice shall include:

    a. The title of the request, the date such notice was sent, the general location and geographic description, and present zoning of the subject property;

    b. An explanation of the nature of the application and the proposed use or uses that might be authorized;

    c. A list of the applicable criteria from this Ordinance, the Comprehensive Plan, and any other state or federal laws, regulations, or rules that apply to the application;

    d. The legal owner(s) of record, the name of the applicant(s) seeking review, and their mailing addresses;

    e. The name and telephone number of the County staff member to contact where additional information may be obtained;

f. A statement 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 a cost established by the Board of County Commissioners;

g. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and

h. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.

5. Decision and Contents of Decision: If the applicant requests or the Planning Director decides that an administrative review process is elevated to the Planning Commission for decision, the procedural guidelines from Section 2.090.C shall be applied. The Planning Director's decision to elevate an application to the Planning Commission is not appealable.

   In making a decision on the application, the Planning Director or other authorized review authority shall consider the evidence in the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The Planning Director shall issue a written decision that details the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts.

   The decision shall also include:

   a. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

   b. The conditions of approval, if any;

   c. The general location and geographic description of the subject property;

   d. The name, email address, and telephone number of the County staff member to contact where additional information may be obtained;

   e. A statement that the complete application file is available for inspection at no cost and that copies will be provided at a cost established by the Board of County Commissioners;

f. The date the review authority's decision becomes effective, unless appealed;

g. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;

h. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Section 2.080.B, may appeal the decision by filing a written appeal within twenty-one (21) days from the date such notice of decision was sent;

i. A statement that provides location for filing the appeal, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and

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

6. Additional Considerations for Decision:

a. The applicant has the burden to demonstrate that the application complies with the applicable standards and criteria. The applicant shall demonstrate by substantial evidence in the record that:

i. The proposed action fully complies with the applicable map elements of the Comprehensive Plan.

ii. The proposed action fully complies with other applicable elements of the Comprehensive Plan.

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

b. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.

c. Written comments from parties or other persons.

7. Limitations Applicable to Conditions of Approval

a. Conditions of approval shall be fulfilled within the time limitations set forth in the approval thereof, or, if no specific time has been set forth, within two years from the date of decision.

b. Changes or alterations of conditions shall be processed as a new review.

c. A condition of approval may require the property owner or developer to enter into a development agreement with the County. The Planning Director has authority to execute the agreement on behalf of the County. If a development agreement is required, no building permit shall be issued for the property until the agreement is executed and recorded in the real property records of Wasco County.

d. The County may require a bond, cash deposit or other form of financial security, in a form acceptable to the County, to ensure compliance with the conditions of approval. If a bond or other financial security is required, it shall be in an amount equal to 125 percent of any improvements secured by the bond. The bond or other financial security shall be provided to the County prior to the issuance of any building permits for improvements to the site.

e. Failure to fulfill any conditions of approval within the time limitations imposed may be grounds for initiation of administrative action, enforcement action or revocation of approval by the Planning Director.

8. Notice of Decision: The notice of decision and all other application materials, documents and other evidence submitted by or on behalf of the applicant or developed by staff for the land use decision shall become part of the record available for public review.

   A copy of the decision shall be mailed to those identified in Subsections 2.080.B.2 and 2.080.B.3 of this Chapter.

9. Appeal: A Type II decision is the County's final decision unless an appeal is filed with the Planning Director within 12 days after the date of the decision. The Planning Commission or other authorized review authority, or Board of County Commissioners on its own motion, may order review of the decision within 12 days after the date of the decision. An appeal is subject to the standards and procedures described in Section 2.130 of this Chapter.

10. Re-filing an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and no higher authority reverses such denial or revocation upon appeal, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.

C. Type III Quasi-Judicial Review Procedures (Development Permit)

1. Notice of Application and Public Hearing: A minimum of 20 days prior to the first public hearing of each review authority on the proposal, or if two or more evidentiary hearings are allowed, ten days prior to the first evidentiary hearing, written notice of application and hearing shall be mailed to:

    a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

    b. All property owners on the most recent property tax assessment roll:

        i. Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

        ii. Within 300 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

        iii. Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone;

    d. The Oregon Department of Land Conservation and Development, at the discretion of the applicant;

    e. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat;

    f. Any active community planning organization, if the subject property lies wholly or partially inside the boundaries of such organization;

    g. A city, within whose recognized Urban Growth Boundary the subject property lies or whose facilities may be impacted, and as prescribed in applicable urban growth management agreements;

    h. Any governmental agency or public district within whose boundary the property is located, such as county departments, Sheriff's Office, fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. Impacted jurisdictions and agencies typically include, but are not limited to, the Department of Environmental Quality, Oregon Department of Transportation, Oregon Department of Agriculture, Oregon Fish and Wildlife, the Department of Defense and other applicable local, state or federal agencies;

i. The owner 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, or if required by ORS 197.183, ORS 215.223, or ORS 215.416.

2. Additional Notice of Application and Public Hearing Requirements: The following notification requirements are in addition to those set forth in Section 2.090.C.1 of this Chapter.

a. The Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and OAR 660-018.

b. Notice shall be printed by publication in a newspaper of record within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.

c. Pursuant to ORS 215.418, notice shall be provided to Department of State Lands, the applicant, and owner of record within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory provided by DSL;

i. Subdivisions;

ii. Building permits for new structures;

iii. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;

iv. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and

v. Planned unit development approvals.

d. Pursuant to ORS 197.798 and OAR 660-012-0060, notice of a 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, shall 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.

e. If a proposed zone change will limit or prohibit uses previously allowed in the zone, the County shall provide mailed notice to each owner of property within the affected zone. The form of the notice shall generally comply with ORS 215.503.

3. Contents of Notice of Application and Public Hearing: At a minimum, the contents shall include:

   a. The title of the request, the date such notice was sent, the general location and geographic description, and present zoning of the subject property;

   b. An explanation of the nature of the application and the proposed use or uses that might be authorized;

   c. A list of the applicable criteria from this Ordinance, the Comprehensive Plan, and any other state or federal laws, regulations, or rules that apply to the application;

   d. The legal owner of record, the name of the applicant, and their mailing addresses;

   e. Date, time, and location of the hearing;

   f. A statement that failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;

   g. A statement 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 a cost established by the Board of County Commissioners;

   h. A statement 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 a cost established by the Board of County Commissioners;

i. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and

j. The name and telephone number of the County staff member to contact where additional information may be obtained;

k. A general explanation of the requirements for submission of comments, testimony and the procedure for conduct of hearings; and

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

4. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the Planning Commission or other authorized review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing. All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

   Additional considerations include the following:

   a. The applicant has the burden to demonstrate that the application complies with the applicable standards and criteria. Unless otherwise provided for in this Chapter, the applicant shall demonstrate by substantial evidence in the record that:

      i. The proposed action fully complies with the applicable map elements of the Comprehensive Plan.

      ii. The proposed action fully complies with other applicable elements of the Comprehensive Plan.

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

   b. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.

5. Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony and making a decision regarding the application. Rules of public hearing procedure and conduct are provided in Section 2.110 of this Chapter.

6. Decision: The Planning Commission or other review authority shall consider the record and approve, approve with conditions, or deny the application based on the evidence in the record and the applicable standards and criteria. The Planning Commission or other review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision shall also include:

   a. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

   b. The conditions of approval, if any;

   c. The street address or other easily understood geographical reference to the subject property;

   d. The date the review authority's decision becomes effective, unless appealed; and

   e. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal within 12 days from the date such notice of decision was sent, the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process.

7. Notice of Decision: The notice of decision, staff report, and all other application materials, documents and other evidence submitted by or on behalf of the applicant or developed by staff for the land use decision shall become part of the record available for public review.

   A copy of the decision shall be mailed to:

   a. Those identified in Section 2.090.C of this Chapter;

   b. Anyone who provided evidence, argument, or testimony as part of the record;

c. Anyone who made a written request for notice of decision; and

d. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and OAR 660-018.

8. Appeal: The Planning Commission or other authorized review authority's decision is final unless an appeal is filed with the Planning Director within 12 days after the date of the decision. The Board of County Commissioners on its own motion, order review of the decision within 12 days after the date of the decision. An appeal is subject to the standards and procedures described in Section 2.130 of this Chapter.

9. Re-filing an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and no higher authority reverses the decision, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.

D. Type III Text Amendment or Zone Change Request (Quasi-Judicial Review Procedures)

1. Notice of Application and Public Hearing: Written notice of an application and hearing shall be mailed within a minimum of 20 days prior to the first public hearing, or if two or more evidentiary hearings are allowed, ten days prior to the first evidentiary hearing, to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners on the most recent property tax assessment roll that are:

i. Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

ii. Within 250 feet of the property which is the subject of the proposed plan amendment or zone change request where the subject property is inside or outside an urban growth boundary and not within a farm or forest zone; or

iii. Within 750 feet of the property which is the subject of the proposed plan amendment or zone change request notice where the subject property is within a farm or forest zone;

c. Those identified in Subsections 2.090.C.1;

3. Additional Notice of Application and Public Hearing Requirements:

    a. Pursuant to ORS 197.610 and OAR 660-018-0020, a minimum of 35 days prior to the first public hearing, notification shall be provided to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.610 and OAR 660-018.

    b. Notice shall be printed by publication in a newspaper of general circulation within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.

    c. Pursuant to ORS 197.798 and OAR 660-012-0060, notice of a 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, shall 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:

4. Contents of Notice of Application and Public Hearing: At a minimum, the contents shall include:

    a. Those contents identified in Subsection 2.090.C.3 of this Chapter.

5. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. Additional considerations include the following:

    a. The applicant has the burden to demonstrate that the application complies with the applicable criteria. Unless otherwise provided for in this Chapter, the applicant shall demonstrate by substantial evidence in the record that:

        i. The proposed action fully complies with the applicable map elements, goals and policies of the Comprehensive Plan.

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

iii. The site is suitable to the proposed zone;

iv. Evidence of change in a neighborhood or community, or mistake in the planning or zoning for the property under consideration, are additional relevant factors.

v. Factors that relate to the public need for health, safety and welfare in applying the specific zoning regulations.

vi. A text amendment or zone change may be based on special studies or other information that provide a factual basis to support the change. The public need and justification for the particular change must be established.

The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing. All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

6. Additional Review Requirements for Proposed Plan Amendments: Transportation Planning Rule Compliance

   A proposed zone change or land use regulation amendment shall be reviewed to determine whether it significantly affects a transportation facility in accordance with OAR 660-012-0060 (the Transportation Planning Rule – "TPR").

7. Public Hearing: A public hearing shall be held before the appropriate review authority. Rules governing the conduct of the public hearing are provided in Section 2.110 of this Chapter.

   a. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony regarding the application.

      i. Planning Commission Recommendation: The Planning Commission or other authorized review authority shall consider the evidence in the record and may make a recommendation to the Board of County Commissioners to approve, approve with modifications, or decline to approve the application. If no recommendation is made by the Planning Commission or other authorized review authority, and an extension is not granted by the Board

of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

b. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the application and to make a final decision.

8. Decision: The Board of County Commissioners shall consider the evidence in the record and approve, approve with modifications, or deny the application based on the applicable standards and criteria. The Board shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:

   a. An explanation of the nature of the application and the plan or zone changes that were proposed and, if applicable, are authorized by the decision;

   b. The modifications made, if any;

   c. The street address or other easily understood geographical reference to the subject property;

   d. The date the review authority's decision becomes effective, unless appealed;

   e. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision; and

   f. A statement that the decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830 to 197.845.

9. Notice of Decision: A copy of the decision shall be mailed to:

   a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
   b. Anyone who provided evidence, argument, or testimony as part of the record;
   c. Anyone who made a written request for notice of decision; and
   d. Pursuant to ORS 197.615 and OAR 660-018-0022, to the Oregon Department of Land Conservation and Development (DLCD) within 20 days after the date of a decision to adopt the change. Procedures for notice to DLCD are set forth in ORS 197.610 and OAR 660-018.

10. Appeal: The Board of County Commissioners decision is final. The Board's decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830-845.

11. Refiling an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and the decision is not reversed by a higher authority on appeal, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.

E. Type IV Legislative Land Use Proposals (Legislative Review Procedures)

1. A proposed legislative change must be submitted to the Department of Land Conservation and Development (DLCD) at least 35 days before holding the first evidentiary hearing on the proposed change. The proposed change must be submitted to DLCD on the forms and include materials outlined in OAR 660-18-0020(2).

2. Notice of Proposal and Public Hearing: A minimum of 20 days, but no more than 40 days, prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:

   a. When the proposed change will limit or prohibit a use allowed in a zone, to the owner(s) of property in the affected zone;

3. Additional Notice of Proposal and Public Hearing Requirements:

   a. Notice shall be printed by publication in a newspaper of record for Wasco County at least 14 days prior to the first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.

4. Contents of Notice of the Legislative Proposal and Public Hearing:

   a. Pursuant to ORS 215.503(5), at a minimum, the contents of the notice for individual property owners shall substantially contain the following language:

      i. This is to notify you that Wasco County has proposed a land use regulation that may affect the permissible uses of your property and other properties in the affected area, and may change the value of your property. On [date of public hearing], Wasco County will hold a public hearing at regarding the adoption of [Ordinance Number or File Number]. Wasco County has



determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property. [Ordinance Number or File Number] is available for inspection at no cost at the Wasco County Planning Department located at [current address]. A copy of [Ordinance Number or File Number] is also available for purchase for the cost of copies. For additional information concerning [Ordinance Number or File Number], you may call the Wasco County Planning Department at [phone number], visit our website [url], or email the staff contact [name and email address].

ii. Pursuant to ORS 215.513, the notice shall also contain the following statement: NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

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

5. Additional Notice Requirements for Periodic Review of the Comprehensive Plan:

a. Pursuant to ORS 215.503(6), for proposed amendments of a comprehensive plan or land use regulation by the Board of County Commissioners required by periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, a written individual notice of the land use change shall be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property and contain the language required by ORS 215.503 (6) (a) and (b).

6. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence prior to each public hearing; prepare a staff report summarizing the proposal, comments received to-date, and relevant issues associated with the proposal; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

a. Considerations for Comprehensive Plan amendment proposals can be found in Chapter 15 of the Wasco County Comprehensive Plan.

b. Considerations for Land Use Ordinance amendment proposals include, but are not limited to the following:

i. The proposed action fully complies with the applicable map elements, goals and policies of the Comprehensive Plan.

ii. Substantial evidence that the change is not detrimental to the spirit and intent of the applicable goals.

iii. Evidence of change in a neighborhood or community, or mistake in the planning or zoning for the property under consideration, are additional relevant factors.

iv. Factors that relate to the public need for health, safety and welfare in applying the specific zoning regulations.

v. Revisions may be based on special studies or other information that provide a factual basis to support the change.

vi. The public need and justification for the particular change must be established.

7. Additional Review Requirements for Proposed Plan Amendments: Transportation Planning Rule Compliance:

   A proposed zone change or land use regulation change, whether initiated by the County or a private party, shall be reviewed to determine whether it will significantly affect a transportation facility in accordance with OAR 660-012-0060 (the Transportation Planning Rule – "TPR").

8. Public Hearing: A public hearing shall be held before the appropriate review authority. Rules governing the conduct of the public hearing are provided in Section 2.110 of this Chapter.

   a. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony regarding the proposal.

      i. Planning Commission Recommendation: The Planning Commission or other authorized review authority shall consider the evidence in the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission or other authorized review authority and an extension is not granted by the Board of County

Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

b. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners for the purpose of receiving testimony regarding the proposal.

9. Decision: The Board of County Commissioners shall consider the record and adopt, adopt with modifications or decline to adopt the proposal; remand the matter back to the Planning Commission or other authorized review authority for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance. The decision also shall include:

   a. A brief summary of the decision;

   b. If adopted: The date and number of the adopting ordinance; and where and when the adopting ordinance, staff report, and all other materials, documents and other evidence submitted or developed by staff can be obtained;

   c. A statement that the decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830 to 197.845; and

   d. The name and telephone number of the County staff member to contact where additional information may be obtained.

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

10. Notice of Decision: A copy of the decision shall be mailed to:

    a. The Oregon Department of Land Conservation and Development (DLCD). Procedures for notice to DLCD are set forth in ORS 197.610 and OAR 660-018.

    b. Parties who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change.

11. Appeal: The Board of County Commissioners decision is final. The decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830 to 197.845.

Section 2.100 - Time Limits for Development Permits and Extensions of Time

A. Time Limits for Permits:

1. A development permit approval is valid for two years from the date of the final decision unless otherwise specified in the approval or by other provisions of the Wasco County Land Use and Development Ordinance, and except as provided for in Subsection 2.100.B below.

2. A permit for a discretionary approval of residential development on agricultural or forest zoned land is valid for four years, consistent with OAR 660-033-0140 and ORS 215.417(1), unless otherwise specified in the approval or by other provisions of the Wasco County Land Use and Development Ordinance, and except as provided in Subsection 2.100.B below. For the purpose of this section "residential development" only includes the dwellings provided for under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750, and 215.755(1) and (3).

3. A permit becomes invalid if development has not commenced within the time limit listed in Section 2.100 (A) 1 and 2, and is not timely extended under Section 2.100 (B). Commencement of development is defined in Chapter 1 of this Ordinance.

4. A permit becomes invalid if the approved use is discontinued for any reason for one continuous year or more.

B. Extension of Time Request: If an extension of time is required, the holder of the approved permit must apply for an extension. A one-time extension may be granted for a maximum of two years. Extension of time requests will be reviewed as an administrative action. Approval of an extension granted under this rule is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

Extensions shall be granted only upon findings that:

1. Written request for an extension of time has been made prior to expiration of the approved permit.

2. There has been no change in circumstances or the law that will necessitate significant modifications of the development approval or conditions of approval.

3. For extensions for applications in an Exclusive Farm Use Zone, the applicant shall provide reasons, for which the applicant is not responsible, that prevented the applicant from beginning or continuing development within the approval period.

Section 2.110 - Hearing Procedure

A. General Conduct of All Hearings. The presiding officer 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 rules of conduct. Violations of the rules of conduct shall be grounds for the immediate suspension of the hearing. The following rules apply to the general conduct of the hearing:

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

2. No person shall testify without first receiving recognition from the review authority.

    a. Recognition shall require that the witness state their full name and address for the record.

3. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.

4. Audience demonstrations such as applause, cheering, and display of signs, or other conduct that disrupts the hearing is not permitted.

B. In conducting a public hearing, the presiding officer has authority to:

1. Determine the order of the proceedings, including witness testimony.

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

3. Dispose of procedural requirements or similar matters.

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

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

6. When conducted by a hearings officer, grant, deny, or in appropriate cases, attach conditions pursuant to Subsections 2.090.B & 2.090.C. of this Chapter to the matter being heard.

C. Order of Procedure: Pursuant to ORS 197.763, and unless otherwise specified, the review 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. List the applicable substantive criteria.

3. State that testimony, arguments and evidence must be directed toward the applicable substantive criteria or other criteria in the Comprehensive Plan or Land Use Ordinance which the person believes to apply to the decision.

4. State that failure to raise an issue accompanied by statements or evidence sufficient to afford the review authority and the parties an opportunity to respond to the issue precludes appeal based on that issue.

5. Recognize parties.

6. Ask for disclosure of any bias, conflicts of interest or ex parte contact by those on the decision making body.

7. Allow opportunity for the presenting and receiving of evidence.

    a. The presiding officer may set reasonable time limits for oral presentations.

    b. Members of the review authority may visit the property and the surrounding area, and may use information obtained during the site visit to support its decision, if the information is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

8. Unless otherwise directed by the presiding officer, public testimony shall proceed in the following order:
    a. The applicant;
    b. Testimony in support of the application;
    c. Testimony opposed to the application;
    d. Neutral testimony;
    e. Applicant rebuttal.

9. Members of the reviewing body may ask questions of the applicant, witnesses or staff at any time during the hearing.

10. Following applicant rebuttal, the review authority may ask staff to respond to or clarify issues raised during the testimony.

11. Prior to the conclusion of the initial evidentiary hearing, any party may request that the record be held open to allow additional evidence, argument, or testimony regarding the application.

    a. The review authority shall grant the request either by continuing the hearing to a time and date certain, or by holding the record open for additional written evidence.
    b. If the hearing is continued and new evidence is submitted, the review authority shall provide an opportunity for testimony to address the new evidence.
    c. If the record is left open, it shall be left open for at least seven days, and shall include an additional opportunity to respond to any new evidence that is received during the seven day period.
    d. The applicant shall have an additional seven days after the record is closed to all other parties to submit final written argument, which may not include new evidence. The additional seven days is not included in the relevant deadline for issuing a final local decision. The applicant may waive the opportunity to file final written argument.
    e. If the applicant requests the record be held open for additional evidence, the period the record is held open is not included in the relevant deadline for issuing a final local decision.

12. The applicant at its discretion may extend in writing the time for issuing a final decision.

13. The review authority at its discretion may continue the hearing to allow the submission of additional evidence or for deliberation without additional evidence.

    a. New notice of a continued hearing need not be given so long as the review authority establishes a certain time and location for the continued hearing.

14. After the opportunity to submit evidence has expired, the presiding officer shall close the record and the review authority shall proceed to deliberate. Unless the review authority reopens the record to allow responsive evidence, any evidence that is received after the record is closed shall not be placed before or considered by the review authority.

15. The review authority's decision shall be set forth in writing with appropriate findings, conditions and conclusions. The decision is final when signed by the review authority.

a. For the purpose of signing a decision of the Planning Commission or other authorized review authority, the Chair of the Planning Commission or authorized reviewing authority or the Planning Director may sign.

16. The Planning Director shall send a notice of the review authority's decision to all parties to the matter.

D. Ex Parte Contact, Conflict of Interest and Bias

An impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte (outside the hearing) contacts as reasonably possible shall be a procedural entitlement provided at the public hearing.

Pursuant to ORS 215.422, the following rules and procedures govern a decision maker's participation in a quasi-judicial or legislative proceeding or action affecting land use:

1. Ex Parte Contact: In a quasi-judicial proceeding, a member of the review authority who receives information regarding the application through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This subsection does not apply to legislative proceedings or contacts between staff and a member of the review authority.

2. Conflict of Interest: A member of a review authority shall not participate in any proceeding or action in which the member has an actual conflict of interest as defined in ORS 244.020. A member of a review authority shall disclose any potential conflict of interest, as defined in ORS 244.020, at the beginning of the initial hearing, but may thereafter participate in the proceeding.

3. Bias: All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This paragraph does not apply to legislative proceedings.

Section 2.120 - Official Notice

A. The review authority may take official notice of the following:

1. The laws of the State of Oregon, the United States, any federally recognized American Indian tribal government and any state, territory or other jurisdiction of the United States.

2. The Comprehensive Plan and other officially adopted plans, ordinances, joint management agreements, 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 review authority in reaching a decision.

Section 2.130 - Appeals Procedures

A. Appeals of Type II Administrative Decisions

1. Appeal of a Type II Administrative decision is subject to review by the Planning Commission or other authorized review authority. Table 2-1 identifies those Type II decisions and the applicable review authority.

2. An appeal may be filed by the following:

a. The applicant, property owner or contract purchaser, as shown in the Wasco County assessment records.
b. A person who submitted written comments on the application.
c. A person who received notice of the application.
d. A Citizen Advisory Group pursuant to the County Citizen Involvement Program.
e. An affected unit of local government, state or federal agency.

3. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision.

a. A party to an action who wishes to appeal an administrative decision shall submit the appeal notice on a form prescribed by the Planning Director. The notice must include the required appeal fee. In addition, the appeal notice shall contain:

i. A reference to the decision appealed.
ii. A description of the reasons the appellant believes the decision is in error.
iii. The date of the final decision of the action.

b. The failure to submit the appeal notice in a timely manner with the required fee, including return of checks unpaid or other failure of payment, is jurisdictional defect and the appeal will be dismissed.

4. Party Notice of Appeal: 20 days prior to the date of the appeal hearing, the Planning Director shall give notice to all parties to the case of the time, date and place of the hearing.

   a. Notice shall be printed by publication in a newspaper of general circulation within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.

   b. Notice of a quasi-judicial hearing shall be provided as described in Subsection 2.090.C of this Chapter.

5. A staff report shall be made available to the public for review a minimum of seven days prior to an evidentiary hearing.

6. An administrative action that is appealed to the Planning Commission or other authorized review authority shall be heard "de novo," without limitation to the issues or evidence, and the hearing conducted as the initial evidentiary hearing.

   a. An appeal hearing shall follow the hearings procedures set forth in Section 2.110 of this Chapter.

7. The Planning Commission or other authorized review authority may affirm, reverse or modify the administrative decision, including such conditions of approval that the Planning Commission or other review authority determines are necessary to ensure compliance with the applicable standards and criteria.

8. The Planning Director shall send a copy of the Planning Commission or review authority's decision to all parties to the matter.

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B. Appeals of Type III Quasi-Judicial Decisions

1. Appeal of a Type III Quasi-Judicial decision made pursuant to this Chapter is subject to review by the Board of County Commissioners. Table 2-1 identifies those land use decisions that may be appealed to the Board of County Commissioners.

   a. A Type III decision may be appealed by any person who participated in the proceedings before the Planning Commission or other review authority.

b. A Type III Quasi-Judicial decision made by the Planning Commission may be appealed by the Board of County Commissioners upon its own motion passed within 12 days of the written decision sought to be reviewed if no appeal is filed.

2. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision.

a. An appeal notice must be submitted on a form prescribed by the Planning Director. The notice shall be accompanied by the required appeal fee. The notice shall contain at least the following:

i. A description of the decision being appealed.

ii. A description of the appellant's participation in the proceedings before the Planning Commission or other review authority.

iii. A description of the reasons the appellant believes the decision is in error.

iv. The date of the decision.

v. The required fee, unless wavered pursuant to Section 2.070 of this Chapter.

b. The failure to submit the appeal notice in a timely manner with the required fee, including return of checks unpaid or other failure of payment, is jurisdictional and the appeal will be dismissed.

3. Party Notice of Appeal: 20 days prior to the date of the appeal hearing, the Planning Director shall give notice to all parties to the case of the time, date and place of the hearing.

a. Notice shall be printed by publication in a newspaper of general circulation within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.

b. For appeal of a quasi-judicial decision, notice shall be provided as described in Subsection 2.090.C of this Chapter.

4. A staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

5. Appeal of a Type III Quasi-Judicial decision shall be de novo.

6. The Board of County Commissioners may affirm, remand, reverse or modify the action of the lesser authority, and including conditions of approval the Board determines are necessary to ensure compliance with the conditions of approval. The Board of County Commissioners shall adopt written findings based on the evidence in the record.

7. The Planning Director shall send a copy of the Board's decision to all parties to the matter.

8. The Board of County Commissioners' decision is final. The decision may be appealed to the Land Use Board of Appeals pursuant with ORS 197.805 to 197.860.

C. Appeals of Type IV Legislative Decisions

1. Appeal of a Type IV Legislative decision (Post Acknowledgment Plan Amendments only) made pursuant to this Chapter shall be made to the Land Use Board of Appeals in accordance with ORS 197.620, 197.805 to 197.860.

2. A Legislative Decision made pursuant to periodic review must be appealed first to DLCD using the objection process. The final order can be appealed per ORS 197.650.

Section 2.140 – General Provisions

A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director or other authorized review authority may accept these statements to be true. Nothing herein shall prevent the Planning Director or other authorized review authority, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

C. Property Owner Notice: Where notice to property owners of record is required by Section 2.090 and Section 2.120 of this Chapter, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal will not be notified of the application, decision, or hearing. Wasco County is not required to provide more than one notice to a person who owns more than one lot or parcel affected by a change to the Comprehensive Plan or land use regulation. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 2.090 and Section 2.120 of this Chapter shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

D. Method of Mailing: When mailing is required by Section 2.090 and Section 2.120, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.

E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

F. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

G. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:

1. The day the final decision is reduced to writing and signed by the decision maker, if no appeal at the County level is allowed;

2. The day after the appeal period expires, if an appeal at the County level is allowed and the decision is not appealed; or

3. The day the decision is reduced to writing and signed by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed.

Existing Chapter 2 Development Approval Procedures	Draft Chapter 2 Revision	Details of Section and Alterations
Section 2.010 - Purpose	**Section 2.010** - Purpose	Added nexus to State law.
Section 2.020 - Review Process	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Step-by-step review process for each type of permit or land use action. Visual aid for permit review and appeal authorities.
Section 2.030 - Coordination of Development Approval	**Section 2.020** - Review Authorities **Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Authorities responsible for decisions and recommendations. Step-by-step review process for each type of permit and land use action. Visual aid for permit review and appeal authorities.
Section 2.040 - Who May Apply	**Section 2.040** - Application Submittal and Completeness Review	Who may apply and what information is needed for a complete application.
Section 2.050 - Pre Application Conference	**Section 2.030** - Pre-Application Conference	Little change. More robust submittal requirements and time-lines.
Section 2.060 - Application/Completeness (Amended 4/12)	**Section 2.040** - Application Submittal and Completeness Review **TABLE 2-1:** Review Procedures Summary	Who may apply and what information is needed for a complete application. Visual aid for permit review and appeal authorities.
Section 2.070 - Filing Fees	**Section 2.050** - Filing Fees	Added nexus to State law.
Section 2.080 – Notice	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Public notice procedures for each type of permit and land use action. Visual aid for permit review and appeal authorities.
Section 2.090 - Contents of Notice	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal)	Contents of public notice, decision, and contents of the decision.
Section 2.100 - Administrative Action Procedure of the Director	**Section 2.080** - Final Action on Permit or Zone Change Application **Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Added nexus to State law detailing final decision time-lines for permits and land use actions. Review and decision making authority for each permit and land use action. Visual aid for permit review and appeal authorities.
Section 2.100 - Administrative Action Procedure of the Director	**Section 2.080** - Final Action on Permit or Zone Change Application **Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Added nexus to State law detailing final decision time-lines for permits and land use actions. Review and decision making authority for each permit and land use action. Visual aid for permit review and appeal authorities.
Section 2.110 - The Decision of the Director	**Section 2.080** - Final Action on Permit or Zone Change Application **Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary **Section 2.140** - General Provisions	Added nexus to State law detailing final decision time-lines for permits and land use actions. Review and decision making authority for each permit and land use action. Visual aid for permit review and appeal authorities. Details burden of proof requirements, and other information.

Existing Chapter 2 Development Approval Procedures	Draft Chapter 2 Revision	Details of Section and Alterations
Section 2.120 - Notice of a Decision by the Director	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary	Review and decision making authority for each permit and land use action. Visual aid for permit review and appeal authorities.
Section 2.125 - Time Limits for Permits and Extensions of Time	**Section 2.100** - Time Limits for Development Permits and Extensions of Time	How long permits are valid, and provisions for receiving extensions of time.
Section 2.130 - Establishment of Party Status	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **Section 2.110** - Hearing Procedure **Section 2.130** - Appeals Procedures	Party status is discussed in three sections. Receiving notice provides party status. Parties to the hearing are recognized by presiding officer. Parties that can file an appeal, procedures of appeal, appeal time-lines, and review authorities.
Section 2.140 - Hearing Procedure	**Section 2.110** - Hearing Procedure	Hearing procedures are provided in a step-by-step process.
Section 2.150 - Official Notice	**Section 2.120** - Official Notice	Laws, rules, and other facts conclusively established.
Section 2.160 - Appeal from Decision of the Director	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal) **TABLE 2-1:** Review Procedures Summary **Section 2.130** - Appeals Procedures	Time limits for appeal and authorities that may appeal on motion. Visual aid for permit review and appeal authorities. Parties that can file an appeal, procedures of appeal, appeal time-lines, and review authorities.
Section 2.170 - Review of a Decision of the Planning Commission	**Section 2.130** - Appeals Procedures	Combined all appeals into a single section.
Section 2.170 - Review of a Decision of the Planning Commission	**Section 2.130** - Appeals Procedures	Combined all appeals into a single section.
Section 2.180 - Review by the County Governing Body	**Section 2.130** - Appeals Procedures	Combined all appeals into a single section.
Section 2.190 - General Conduct of All Hearings; Legislative, Administrative or Quasi-Judicial	**Section 2.110** - Hearing Procedure	Hearing procedures and conduct requirements.
Section 2.200 - Additional Hearing Notification Requirements	**Section 2.090** - Review Procedures (Notice, Decision, & Appeal)	Combined notice requirements into a single section.
Section 2.210 – Zoning Maps	N/A	Removed, as appears in Chapter 9 and Chapter 15 of the Comprehensive Plan

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



The drafts are created using track changes in Microsoft Word.

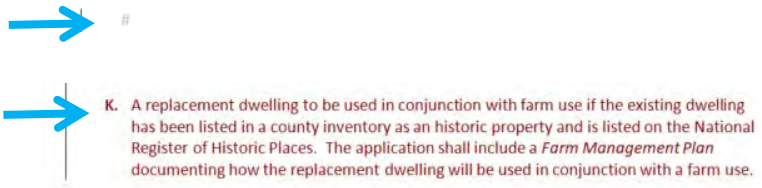
The key to the left is a reference for how revisions are marked up in the draft.

The bold, blue text shows new text. Text with a line through it, in light grey, is proposed to be deleted.



Text underlined by a wavy line is optional.

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



Section 3.770 (EPD 4) Cultural, Historic and Archaeological Overlay

- (Page 1, Section 3.771) Proposed to change EPD to OZ. Language in red was moved from another section.
- (Page 2, Section 3.772) A new subject header was added for applicability, to be consistent with a new framework for overlay zones. Some of the content was moved. #3 was added to be consistent with new state law.
- (Page 2, Section 3.773) A new permitted uses section has been added to make explicit what is permitted. The old Section 3.772 is removed, consistent with the new Wasco County Comprehensive Plan policy to eliminate the Historic Landmarks Commission (HLC) and replace with reviews by the Planning Director or Planning Commission. The Planning Commission has been the proxy HLC for the last several decades.
- (Page 4, Section 3.774) A new required notice to property owners providing the right to object has been added
- (Page 14, Section 3.782) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.800 (EPD 5) Mineral and Aggregate Overlay

- (Page 1, Section 3.801 & 3.802) Purpose is given a section number and reference to correlated state law. The next section is renamed to match the new framework for overlay zones.
- (Page 8, Section 3.807) Based on suggestions from ODOT, more flexibility is added in for hours of operation.
- (Page 13, Section 3.812) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.900 (EPD 6) Reservoir Overlay Zone

- (Page 1, Section 3.901) A sentence is proposed to clarify the process that identified the resources.
- (Page 4, Section 3.907) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.910 (EPD-7) Natural Areas Overlay

- (Page 1) The name of the overlay zone is updated to better indicate all the resources it protects.
- (Page 1, Section 3.911) The purpose statement is edited to make the intent of this overlay more clear.
- (Page 1, Section 3.912) A section for applicability is added, as part of the new overlay zone framework and to clarify how this overlay zone is applied.
- (Page 1-2, Section 3.913) A clarifying statement is added, based on the ESEE Analysis, to allow for all uses to be reviewed as conditional uses and none to be prohibited.
- (Page 2, Section 3.914) Based on policies from the Comprehensive Plan, new criteria is added to this section to ensure the Planning Department and property owners know to coordinate with specific organizations.
- (Page 2, Section 3.915) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.930 (EPD 9) Big Muddy Limited Use Overlay

- (Page 1, Section 3.931 and 3.932) New section numbers are added for purpose and applicability, consistent with the proposed framework for overlay zones.
- (Page 1, Section 3.933) The date of adoption of the overlay is added for accuracy and transparency.
- (Page 3, Section 3.937) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.940 (EPD 10) Badger Creek Limited Use Overlay

- (Page 1, Section 3.941 and 3.942) New section numbers are added for purpose and applicability, consistent with the proposed framework for overlay zones.
- (Page 1, Section 3.943) The date of adoption of the overlay is added for accuracy and transparency.
- (Page 2, Section 3.950) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.960 (EPD 12) Sensitive Bird Site Overlay

- (Page 1, Section 3.960) A new section number is added for the purpose.
- (Page 1, Section 3.962) Language is added or updated to be more consistent with Comprehensive Plan.
- (Page 1, Section 3.963) The exempt uses are added to a distinct section for clarity.
- (Page 4, Section 3.968) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

Section 3.980 (EPD 14) Camp Morrow Limited Use Overlay

- (Page 1, Section 3.981 and 3.982) New section numbers are added for purpose and applicability, consistent with the proposed framework for overlay zones.
- (Page 1, Section 3.983) The date of adoption of the overlay is added for accuracy and transparency.
- (Page 3, Section 3.986) A new section has been added, to be consistent with a new framework for overlay zones, to clarify the relationship between the base zone and the overlay zone.

All other edits are corrections or updates to references or state law requirements.

Section 3.770 - Cultural, Historic and Archaeological Overlay (~~EPD~~OZ-4)

Section 3.770 - Cultural, Historic and Archaeological Overlay (OZ-4) 1
Section 3.771 – Purpose 1
Section 3.772 - Applicability 2
Section 3.773 – Permitted Uses 2
Section 3.774 – Designation of Historic Landmarks or Districts 4
Section 3.775 - Removal of Historic Landmark Designation 6
Section 3.776 - Review of Exterior Alterations 7
Section 3.777 - Review of New Construction 10
Section 3.778 - Procedure for Demolition or Moving a Historic Landmark 11
Section 3.779 - Interim Protection 14
Section 3.780 - Appeals 14
Section 3.781 - Penalties 14
Section 3.782 – Relationship to Base Zones 14

~~Scope. #~~
~~pplicability. #~~

Section 3.771 – Purpose

The Historic Preservation Ordinance (HPO) provides a means to recognize and protect properties listed as Wasco County Historic Landmarks and Districts and to formally recognize and protect historic landmarks under private and public ownership. The purpose of this ordinance is to promote the general welfare by safeguarding the County's heritage as embodied and reflected in its historic landmarks or districts to:

A. Provide for the identification, protection, enhancement, and use of historic landmarks within the County that reflect special elements of the County's architectural, archaeological, artistic, cultural, engineering, aesthetic, historical, political, social, and economic heritage.

B. Strengthen the economy of the County through the protection and enhancement of the County's historic landmarks.

C. Encourage public education, understanding, and appreciation of the County's history and culture.

D. Foster community and neighborhood pride and sense of identity based on recognition and use of historic landmarks.

E. Protect and enhance the County's historic landmarks for enjoyment and use by both residents and visitors.

F. Promote the continued use of historic landmarks without detrimentally affecting their significance.

G. To comply with The Wasco County Comprehensive Plan regarding historic landmarks and resources under Statewide Planning Goal 5.

Section 3.772 - Applicability

A. This ordinance is applied:

1. To all historic**, cultural, or archaeological** resources that appear on the County's adopted Wasco County Cultural Resource Inventory as designated Historic Landmarks;

2. To all properties in historic districts, designated either locally or nationally.

3. To all historic, cultural, and archaeological resources that are on the National Historic Register

Section 3.773 – Permitted Uses

A. **Properties within the Cultural, Historical, and Archaeological Overlay Zone may be used for any use which allowed in the underlying zone provided such use is not detrimental to the preservation of the resource, subject to the specific requirements for the use and all other requirements of Section 3.770.**~~.~~

~~**Section 3.772 - Historic Landmarks Commission**~~

~~The Wasco County Historic Landmarks Commission, hereinafter known as the Landmarks Commission, is hereby created to advise the Planning Commission and Board of Commissioners about the County's historic landmarks and resources.~~

~~A. Composition: The Landmarks Commission shall be composed of seven members who shall be appointed by the Board of Commissioners. Members shall live within Wasco County. When making appointments to the Landmarks Commission, the Board of Commissioners shall consider individuals who have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of history, archeology, architecture, the arts, historic preservation, culture, planning, landscape architecture, business, real estate, law, government, engineering, construction or other related trades. A member of the Planning Commission may serve as non-voting ex officio of the Landmarks Commission. Four members constitute a quorum and shall be entitled to conduct official business and act for the entire Landmarks Commission. Each member is entitled to one vote. Members of the Landmarks Commission shall serve without compensation.~~

B. Terms. The term of each member of the Landmarks Commission shall be three years, with the exception of the initial appointment of the full Landmarks Commission which shall be as follows: three initial members shall be appointed to three year terms, two initial members shall be appointed to two year terms and two members appointed to a one year term. Members may be reappointed or removed at the discretion of the Board of Commissioners. A vacancy on the Landmarks Commission shall be filled for the unexpired term. The Landmarks Commission (by majority vote), at its first meeting shall elect a chairperson and a vice chairperson. The officers shall serve for terms of one year.

C. Powers and Duties of Landmarks Commission. The powers and duties of the Landmarks Commission include:

1. Maintain and update the Wasco County Cultural Resource Inventory, hereinafter referred to as the Inventory.

2. Recommend to the Board of Commissioners the designation of historic landmarks or districts that meet the criteria for designation as contained in Section 3.773.

3. Protect historic landmarks or districts through the review, and approval or disapproval of alterations in accordance with the review criteria established for alterations pursuant to Section 3.775.

4. Review and render decisions on all proposed new construction within a designated historic district or on parcels on which a historic landmark is located.

5. Review and render decisions on all proposed demolitions within a designated historic district or on properties on which a historic landmark is located.

6. Provide a forum for public participation in matters and issues related to historic preservation in the community.

7. Review proposed activities by the County or other agencies, businesses, or developers that may detrimentally affect historic landmarks and advise the Planning and Economic Development Staff, Planning Commission, and Board of Commissioners regarding these matters.

8. Perform other activities relating to historic landmarks and resources including, but not limited to:

a. Provide public education on the prehistoric, historic, and scenic resources of Wasco County;

b. Provide advice to the Board of Commissioners, other County Boards, and County Staff on the preservation of historic landmarks and other historic resources;

c. Providing technical and economic information on preservation of historic landmarks or resources;

d. Make recommendations to the Board of Commissioners for historic resource preservation programs and incentives, to help preserve designated landmarks.

9. Establish and adopt rules for procedure conducting the business of the Landmarks Commission.

Section 3.774 – Designation of Historic Landmarks or Districts

Purpose: The designation of historic landmarks or districts allows the County to formally recognize and protect its historic resources. Designated historic landmarks identify districts, corridors, ensembles, buildings, portions of buildings, sites, landscape features, cemeteries, bridges, signs, plaques, archaeological sites, or other objects of historical and/or architectural significance, locally, regionally, or nationally. The regulations that apply to designated landmarks provide a means to review proposed changes and encourage the preservation of the historic landmark or district.

A. Initiation. The process for designating historic landmarks or districts may be initiated by the Landmarks Commission**Planning Director**, Planning Commission, the Board of Commissioners, recognized neighborhood groups, interested persons, or property owners, or their authorized agents, who submit a complete application for designation.

B. Procedure. Requests for designation of historic landmarks and districts are reviewed initially by the Landmarks Commission**Planning Director**. The Landmarks Commission **Planning Director** makes recommendations for designations to the Board of Commissioners**Planning Commission**. The Board of Commissioners**Planning Commission** shall conduct a de novo hearing in accordance with the requirements of Chapter 2 of the Wasco LUDO **(Type III)** taking into consideration the recommendations of the Landmarks Commission**Planning Director**, and the public testimony. **A public notice must be sent, including a notice to the owners of the right to object at any time during the hearings process.**

C. Application. An application for designation shall be prepared and filed with the Planning and Economic Development Department, using forms prescribed by the Planning Director. The Planning and Economic Development Department shall fix a date and time for a public hearing before the Planning Commission.

D. Review Criteria. The Landmarks Commission **Planning Director** shall review all applications for historic landmark or district designations and shall make its recommendation on the basis of the following criteria (at least one section or sub

section of the following criteria must apply to the proposed historic landmark or district).

1. The proposed landmark or district has historic significance or contributes to the historical resources of the community.– The resource is:

    a. Associated with past trends, events, or values that have made a significant contribution to the economic, cultural, social and/or political history of the city, county, state, region, or nation;

    b. Associated with the life or activities of a person, group, or organization, or institution that has made a significant contribution to the city, county, region, state, or nation;

2. The proposed landmark or district has architectural significance because it:

    a. Embodies distinguishing architectural characteristics of a period, style, method of construction, craftsmanship, or materials;

    b. Represents the work of a designer, architect, or master builder who influenced the development and appearance of history of the county, region, state, or the nation;

    c. It is the only remaining, or one of few remaining, resources of a particular style, building type, design, material, or method of construction;

    d. Is a prominent visual landmark with strong associations to the community;

    e. Has high quality of composition, detailing, and/or crafting.

3. The site contains archaeological artifacts related to prehistory or to the early history of the community.

4. The proposed landmark or district is listed on the National Register of Historic Places.

5. In conjunction with other criteria listed above, the proposed landmark;

    a. Is fifty years old or older unless the resource is of exemplary architectural or historical significance;

    b. Contributes to the continuity or historic character of the street, neighborhood, and/or community;

c. Has sufficient original workmanship and materials remaining to show the construction technique and stylistic character of a given period;

E. Recommendation by the ~~Landmarks Commission~~**Planning Director**.~~–~~ After the historic resource has been evaluated according to the review criteria set forth in Section 3.773 D, the ~~Landmarks Commission~~**Planning Director** shall then consider the probable economic, social, environmental, and energy (ESEE) consequences that designation of the resource would have on all the identifiable conflicting uses permitted under the Zoning Ordinance.~~–~~ The identification of conflicting uses and consideration of ESEE consequences shall be carried out in conformance with provisions of Statewide Land Use Planning Goal 5 (as described in OAR 660-16 et. seq.).

~~——~~If the **Planning Director** ~~Landmarks Commission~~ acts to recommend designation of a historic resource, or ~~—~~designation with conditions, or denial of designation, it shall make specific findings ~~——~~based on the review criteria, and the goals and policies of the Comprehensive Plan.~~–~~ ~~-~~The ~~—~~**Planning Director** ~~Landmarks Commission~~ shall submit its recommendation specifying the findings and ~~——~~forward these to the applicant at least ten (10) days prior to the public hearing and ~~——~~review by the ~~Board of Commissioners~~**Planning Commission**.~~–~~ If the **Planning Director** ~~Landmarks Commission~~ acts to reject a ~~—~~proposed designation, no further action shall be taken unless an appeal of the ~~——Landmarks Commissions'~~**Planning Commission** action is filed with the Board of Commissioners by the ~~——~~applicant, pursuant to Section 3.779.

F. ~~Board of Commissioners~~**Planning Commission** Decision.~~–~~ The ~~Board of Commissioners~~ **Planning Commission** shall take into account the desires of the owners of the property with respect to its designation as a historic landmark.~~–~~ The ~~Board of Commissioners~~**Planning Commission** shall conduct a public hearing to consider the proposed designation and recommendations of the ~~Landmarks Commission~~**Planning Director**.~~–~~ Following the public hearing, the ~~Board of Commissioners~~**Planning Commission** shall approve, or approve with conditions, or to deny the proposed designation based on the ~~Landmarks Commission's~~**Planning Director's** recommendation, and the public comment.~~–~~ Written notice of the action taken by the ~~Board of Commissioners~~**Planning Commission** shall be sent to the applicant by the Planning Director within 30 days of such action.

Section 3.775 - Removal of Historic Landmark Designation

Purpose: Periodically, it may be necessary to remove the designation of a historic landmark. Removal is an effort to reflect changing conditions, community values, or needs.

A. Initiation.~~–~~ The process of removing a historic landmark from the inventory may be initiated by the Planning Commission, Board of Commissioners, the ~~Landmarks Commission~~**Planning Director**, the property owner, or by any other interested person.

B. Procedure.– Review of a request for removal of designation is heard by the ~~Landmarks~~ **Planning** Commission who is the final review body unless an appeal is filed.– The ~~Landmarks~~ **Planning**– Commission shall conduct a quasi-judicial hearing in accordance with the requirements of Chapter 2 of the Wasco County LUDO taking into consideration the review criteria, and the public testimony.

C. Application.– An application for removal for a historic landmark designation shall be prepared and filed with the Planning ~~and Economic Development~~ Department, using forms prescribed by the Planning Director.– The Planning ~~and Economic Development~~ Department shall fix a date and time for a public hearing before the **Planning** ~~Landmarks~~ Commission.

D. Review Criteria.– The ~~Landmarks~~ **Planning** Commission shall evaluate the request for removal of the landmark designation based upon findings that removal of the historic designation shall not adversely impact properties in the surrounding area or integrity of the historic district.– In order to approve an application it must be found that at least one of the following has occurred since the site was listed as a historic landmark:

1. Significance of the landmark or historic district has been substantially reduced or diminished according to the review criteria established in Section 3.773 D.

2. Integrity of the landmark or historic district has been substantially reduced or diminished according the review criteria established in Section 3.773 D.

E. Exceptions.– The Planning Director shall delete any demolished or removed landmark from the official Inventory through an administrative review if the property is damaged in excess of 70 percent of its previous value due to vandalism, a fire, flood, wind, earthquake, or other natural disasters.

Section 3.776 - Review of Exterior Alterations

Purpose: The purpose of reviewing alterations to historic landmarks, individually or within a historic district, is to encourage the preservation of characteristics which led to its designation as a historic landmark.

A. Initiation.– The process for applying for altering a historic landmarks or landmarks within a historic district may be initiated by the property owner, or their authorized agent, who submits a completed application.

B. Alterations.– Review is required for all **exterior**~~EXTERIOR~~ alterations or additions to designated landmarks, individually or within historic districts with the exception of alterations classified as "minor alterations."– The Planning Director, who may consult with the ~~Landmarks~~ **Planning** Commission, shall approve minor alterations through administrative review.– The following are considered "minor" alterations:

1. Replacement of gutters and downspout, or the addition of gutters and downspout, using like materials or materials that match those that were typically used on similar style buildings;

2. Repairing or providing a new foundation that does not result in raising or lowering the building elevation provided that skirting is installed to match the existing skirting.– The repair or new foundation shall not affect the appearance of the building.

3. Replacement of wood siding, when required due to deterioration of material, with wood material that matches the original siding in all materials, dimensions, and textural qualities;

4. Replacement of existing sashes with new sashes, when using material which matches the original historic material and appearance.– Severe deterioration of the original sashes has to be evident.

5. Repair and/or replacement of roof material with the same kind of roof material existing, or with materials which are in character with those of the original roof.

6. Other alterations specified by the Commission.

C. Exemptions from Review.– The general and ongoing responsibility of the property owner to care for, repair and replace with like materials may be done without formal review by the ~~Landmarks Commission~~**Planning Director**.– Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, or appearance of such feature of which the building official shall determine is required for public safety due to an unsafe or dangerous condition.– Normal maintenance may include, but not be limited to:

1. Painting and related preparation.

2. Ground care and maintenance required for the permitted use of the property;

3. Existing materials replaced in kind for historic landmark because of damage or decay of materials.

D. Procedure.– Review of a request for an exterior alteration is heard by the ~~Landmarks~~ **Planning** Commission which is the final review body unless an appeal is filed.– The ~~Landmarks~~ **Planning** Commission shall conduct a quasi-judicial hearing in accordance with the requirements of Chapter 2 of the Wasco County LUDO taking into consideration the review criteria, and the public testimony.

E. Application.– An application for alteration, provided by the Planning Director, shall be prepared by the property owner, or authorized agent, and submitted to the Planning ~~and Economic Development~~ Department for review.– The completed application and attachments are forwarded to the ~~Landmarks~~ **Planning** Commission for review.

F. Review Criteria.– The **Planning** ~~Landmarks~~ Commission must find that either criteria number one (1) or number two (2) below has been met in order to approve an alteration request:

1. The proposed alteration shall cause the landmark to more closely approximate the historical character, appearance, or material composition of the original structure than the existing structure.– The ~~Landmarks~~ **Planning** Commission shall use as guidelines the Secretary of the Interior's "Standards for the Historic Preservation with Guidelines for Applying the Standards", and the Secretary of the Interior's "Standards for Treatment of Historic Properties".

2. The proposed alteration is compatible with the historic characteristics of the area and with the existing structure in massing, size, scale, materials, and architectural features.– The ~~Landmarks~~ **Planning** Commission shall use as guidelines the Secretary of the Interior's "Standards for the Historic Preservation with Guidelines for Applying the Standards", and the Secretary of the Interior's "Standards for Treatment of Historic Properties".

3. In conjunction with criteria number one (1) or number two (2) above, the Landmarks Commission shall also consider:

   a. The value and significance of the landmark within a historic district or of the landmark;

   b. Uniform Building Code, as adopted and amended by the State of Oregon, with particular reference to section 104(f) Historic Buildings and Section 3110 relating to ADA and historic buildings, or related sections.

   c. Other applicable state and local codes and ordinances relating to the building, fire, health and safety.

G. Conditions of Approval.– The ~~Landmarks~~ **Planning** Commission shall either approve, conditionally approve, or deny the request.– Conditions may be attached which are appropriate for the protection and/or preservation of the historic or architectural integrity of the historic district or landmark.

H. Decision.– A decision by the ~~Landmarks~~ **Planning** Commission under this section shall be supported by written findings in accordance with the review criteria.

Section 3.777 - Review of New Construction

Purpose: The purpose of reviewing the **exterior** ~~EXTERIOR~~ design of new construction is to ensure that new structures are compatible with the character of the historic district or designated landmark located on the same parcel.

A. Initiation.~~–~~ The process for applying for new construction may be initiated by the property owner, or their authorized agent, who submit a complete application.

B. New Construction:~~–~~ Review is required for any new construction which occurs **within 750 feet** ~~on the parcel~~ of a designated historic landmark or within a historic district.

C. Procedure.~~–~~ A request to construct a new structure shall be referred to the ~~Landmarks Commission~~**Planning Director** which is the final review body unless an appeal is filed. The **Planning** Director ~~Landmarks Commission~~ shall conduct a ~~quasi-judicial hearing~~**Type II review** in accordance with the requirements of Chapter 2 of the Wasco County LUDO taking into consideration the review criteria**.**~~, and the public testimony.~~

D. Application.~~–~~ An application for new construction shall be prepared and filed with the Planning ~~and Economic Development~~ Department, using forms prescribed by the Planning Director.~~– The Planning and Economic Development Department shall fix a date and time for a public hearing before the Board of Commissioners.~~

E. Relationships to Other Planning Review.~~–~~ Projects which require a historic review may also require other land use reviews.~~–~~ If other reviews are required, the review procedure may be handled concurrently.

F. Review Criteria.~~–~~ In reviewing the request, the **Planning Director** ~~Landmarks Commission~~ shall consider the following criteria:

1. The design of the proposed structure is compatible with the design of the designated landmark on the site or within a historic district, considering scale, style, height, materials, and architectural details.~~–~~ The **Planning Director** ~~Landmarks Commission~~ shall use as guidelines the Secretary of the Interior's "Standards for the Historic Preservation with Guidelines for Applying the Standards", and the Secretary of the Interior's "Standards for Treatment of Historic Properties";

2. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the historic district considering setbacks, distances between structures, location of entrances and similar siting considerations.~~–~~ The **Planning Director** ~~Landmarks Commission~~ shall use as guidelines the Secretary of the Interior's "Standards for the Historic Preservation with Guidelines for Applying the Standards", and the Secretary of the Interior's "Standards for Treatment of Historic Properties".

G. Conditions of Approval.– In approving applications for new construction, the **Planning Director** ~~Landmarks Commission~~ may attach conditions which are appropriate for the preservation of the historic or architectural integrity of the historic district or landmark.

H. Decision.– All decisions by the **Planning Direct or** ~~Landmarks Commission~~ under this section to approve, approve with conditions, or deny construction shall be supported by written findings.– The Planning Director shall mail the applicant a written notice of the action.

Section 3.778 - Procedure for Demolition or Moving a Historic Landmark

Purpose: The purpose of reviewing requests for demolition or moving a historic landmark is to explore all possible alternatives for preservation.– Demolition of historic landmarks is an extreme and final measure.

A. Initiation.– Demolition or moving designated historic landmarks, individually or within a historic district, may be initiated by affected property owners or their authorized agents who submit a complete application for designation.

B. Demolition or Moving:– A permit is required to move, demolish, or cause to be demolished any structure listed as a historic landmark or in a historic district.

C. Procedure.– All requests for demolition or moving a historic landmark shall be reviewed by the **Planning** ~~Landmarks~~ Commission.– The **Planning** ~~Landmarks~~ Commission shall conduct a quasi-judicial hearing in accordance with Chapter 2 of the requirements of the Wasco County LUDO taking into consideration the review criteria, and the public testimony.

D. Application.– An application shall be made to the Planning ~~and Economic Development~~ Department using forms prescribed by the Planning Director.– The Planning ~~and Economic Development~~ Department shall fix a date for a public meeting.

E. Review Criteria.– In considering a proposal for demolition or relocation of a landmark, the **Planning** ~~Landmarks~~ Commission shall have the authority to allow the demolition or relocation, or allow partial demolition or relocation, or delay approval for an initial period not to exceed ninety (90) days from the date of the Commission's initial public hearing.– If the Commission acts to approve the request, in whole or in part, issuance of a permit and the commencement of the work shall be delayed for twenty one (21) days after the Commission's approval to allow for the filing of appeals, as provided in Section 3.779.– In determining whether a demolition or moving permit shall be issued, the Landmarks Commission shall consider the following:

1. The completed application form;

2. Information presented at the public hearing held concerning the proposed development;

3. The Wasco County Comprehensive Plan;

4. The purpose of this ordinance as set forth in Section 3.771 A.

5. The review criteria used in the original designation of the landmark or historic district in which the property under consideration is situated;

6. The historical significance and architectural style, the general design, arrangement, materials of the structure in question or its appurtenant fixture; the relationship of such features to similar features of the other buildings within the historic district and the position of the buildings or structure in relation to public rights of way and to other buildings and structures in the area;

7. The effects of the proposed application upon the protection, enhancement, perpetuation and use of the landmark and/or historic district which cause it to possess a special character or special historical or aesthetic interest or value;

8. Whether denial of the permit shall involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purpose of this Ordinance.

F. Decisions.– The **Planning** ~~Landmarks~~ Commission shall make a decision following the completion of the public hearing.– For applications for demolition, the **Planning** ~~Landmarks~~ Commission may approve, approve with conditions, or invoke a stay of demolition.– The length of stay shall be no more than ninety (90) days from the date of the public hearing.– During the period, the **Planning** ~~Landmarks~~ Commission shall attempt to determine if public or private acquisition and preservation is feasible, or alternatives are possible which could be carried out to prevent demolition or removal of the site or structure.

1. Further postponements may be made for a period not to exceed one hundred and twenty days (120) days from the date of the hearing, if the Commission finds:

   a. There is a program or project underway that could result in public or private acquisition of the landmark;

   b. There are reasonable grounds for believing the program or project may be successful.

2. After granting a further postponement, the **Planning** ~~Landmarks~~ Commission may order the Planning Director to issue the permit if it finds;

a. All programs or projects to save the resource have been unsuccessful;

b. The application for demolition or moving has not been withdrawn; and

c. The application otherwise complies with county ordinances and state law.

3. During the stay of demolition, the **Planning** ~~Landmarks~~ Commission may require the property owner to:

a. List the Landmark with a real estate agent for a period of not less than 60 days stating that the property shall be given away to parties interested in moving the Landmark.~~–~~ The real estate agent shall advertise the Landmark in local and state newspapers of general circulation.

b. Give public notice by posting a hearing notice on site in addition to a sign which shall read:~~–~~ "Historic Building to be Moved or Demolished Call the County Planning and Economic Development Department for Information".~~–~~ The sign shall be provided by the County and be posted in a prominent and conspicuous place within ten feet of a public right of way abutting the premises on which the structure is located.~~–~~ The applicant is responsible for assuring that the sign is posted for a continuous 60 day period.

c. Prepare and make available any information related to the history of the landmark.

d. Assure that the owner has not rejected a bona fide offer that would lead to the preservation of the landmark.

4. As a condition for approval of a demolition permit, the **Planning** ~~Landmarks~~ Commission may require one or more of the following:

a. Require photographic documentation, architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource.~~–~~ The historical documentation materials shall be the property of the County or other party determined appropriate by the commission.

b. Require that the property owner document that the Historic Preservation League of Oregon or other local preservation group had been given the opportunity to salvage and record the landmark.

G. Exemptions.~~–~~ The Planning ~~and Economic Development~~ Department shall issue a permit for moving or demolition if any of the following conditions exist:

1. The building is not designated compatible within historic district.

2. The structure had been damaged in excess of 70 percent of its previous value due to vandalism or in a fire, flood, wind, or other natural disaster.

3. The Fire Districts, or Buildings Official determines that the demolition or moving is required for the public safety due to an unsafe or dangerous condition.– Prior to the emergency action, the chair of the Landmarks Commission shall be notified of such action.

Section 3.779 - Interim Protection

Interim Protection: This provision is intended to provide interim demolition protection measures for historic resources listed in the "Wasco County Cultural Resource Inventory" that have not been designated as Historic Landmarks.– Resources in the Inventory that have not been designated are subject to provisions set forth in Section 3.777 E of this ordinance entitled "Procedure for Demolition/Moving Historic Landmarks".– After a complete survey and evaluation of significance and upon designation of significant properties as Historic Landmarks, the Interim Protection Measures shall cease.

Section 3.780 - Appeals

A final written decision of the **Planning** ~~Landmarks~~ Commission may be appealed to the Board of Commissioners if such appeal is submitted in writing to the Planning ~~and Economic Development~~ Department within twenty one (21) days after the date of the **Planning** ~~Landmarks~~ Commission's written decision.– The filing of the written appeal with the Board of Commissioners shall stay any action relating to the subject property until a decision is made by the Board of Commissioners.– Any such appeal shall state specifically the grounds on which the appeal is based, indicating how the **Planning** ~~Landmarks~~ Commission erred in applying the provisions of Sections 3.773 to 3.780 of this ordinance.– The Board of Commissioners shall conduct a public hearing to consider the appeal according to Section 2.180 "Review by the Board of Commissioners" of the Wasco County LUDO.– The decision of the Board of Commissioners shall be considered a land use decision.

Section 3.781 - Penalties

Failure to comply with this ordinance shall constitute a violation of this regulation and be subject to the penalty and abatement proceedings prescribed under Chapter 15 of the Wasco County LUDO.

Section 3.782 – Relationship to Base Zones

A. Land located in this overlay zone **is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.**

Section 3.800 - Mineral and Aggregate Overlay (OZ~~EPD~~-5)

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Section 3.801 - Purpose

~~Purpose:~~ **Mineral and aggregate resources are protected by Goal 5 of the Statewide Land Use Planning Program (OAR 660-023-0180).** The purpose and intent of the Mineral and Aggregate Overlay Zone is:

A. To allow the development and use of mineral and aggregate resources;

B. To provide uniform standards for extraction and processing of mineral and aggregate resources;

C. To balance conflicts between mining operations and new and existing surrounding conflicting uses;

D. To ensure the rehabilitation and restoration of mining sites; and

E. To protect mineral and aggregate resources for future use consistent with Comprehensive Plan goals and policies and Statewide Planning Goal 5.

Section 3.802 - Applicability~~tion of Overlay Zone~~

The provisions of this Chapter shall apply to all lands designated Significant Mineral and Aggregate Overlay. Nothing in this Chapter shall constitute a waiver or suspension of the provisions of any underlying zone or concurrent overlay. Any conflicts between the provisions of the Chapter and the provisions of other chapters of this Ordinance, Comprehensive Plan Goals and Policies and the Statewide Planning Goals shall be resolved through the County process.

Only sites deemed ~~significant~~ **Significant** ~~resource~~ **Resource** ~~sites~~ **Sites** shall be zoned Mineral and Aggregate Overlay. Mining and processing activities at sites not zoned Mineral and

Aggregate Overlay may be allowed after conditional use approval under the criteria of Chapter 5 of WCLUDO. All sites which have not been evaluated for significance shall be classified "Potential Sites" on the County inventory until information is available to determine if the site is significant or not significant.

The Mineral and Aggregate Overlay consists of two distinct areas: the Extraction area and the Impact area.

A. Extraction Area. The Mineral and Aggregate Extraction Area shall be applied to any site which has been identified as a significant resource. The area may consist of one or more tax lots or portion(s) of single tax lots, and may be applied to contiguous properties under different ownership. The size of the Extraction Area shall be determined by the ESEE, but there shall be a minimum distance of 750' between any existing Sensitive Use to the extraction area boundary on the effective date of this ordinance.

   This distance may be decreased through the ESEE analysis prior to application of the Overlay, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area. However, in no case shall the Extraction Area boundary be less than 100 feet from the Sensitive Use.

B. Impact Area. The Mineral and Aggregate Impact Area shall be applied to properties or portions of properties adjacent to and immediately surrounding an Extraction Area. The width of the Impact Area shall be determined through the ESEE analysis prior to application of the Overlay designation, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area. The minimum width of the impact area shall be 750' from the Extraction Area boundary unless findings developed through the County process can show justification for a change.

Section 3.803 - Procedure for Applying the Overlay Zone

A. Determination of Significant Site. The County Planning Director or the Director's designee shall analyze available information relating to the location, quality and quantity of mineral and aggregate deposits. A decision of significance shall be determined as described pursuant to Section 2.060 (A)(9) of this Ordinance, based on the following: ~~(Amended 9-93)~~

   Information to demonstrate the significance of a resource shall include:

   1. A survey map, assessor's/tax lot map(s) or other legal description that identifies the location and perimeter of the mineral and aggregate resource; and

   2. Information demonstrating that the resource meets or can meet two of the following minimum requirements:

      a. Abrasion: Loss of not more than 35% by weight;

b. Oregon Air Degradation: Loss of not more than 35% by weight:

c. Sodium-Sulphate Soundness: Not more than 17% by weight.

Information may consist of laboratory test data or the determination of a certified, licensed or registered geologist, or other qualified person; and

3. Information that the site meets at least one of the following two criteria:

a. Is located within an ownership or long-term lease containing reserves in excess of 100,000 tons (69,000 cubic yards); however, an aggregate site is not significant if the criteria in either paragraphs (1) or (2) of this subsection apply, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date:

(1) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or

(2) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this rule.

b. Is located on property owned by, or under long-term lease to a city, county, or state jurisdiction for the primary purpose of excavating, or processing of aggregate or stone materials for road maintenance or road construction.

B. Other mineral resources. Significance of non-aggregate resources shall be determined on a case-by-case basis after consultation with DOGAMI.

C. Based on the analysis of information relating to the location, quality and quantity of the mineral and aggregate resource, the county shall determine the status of the resource site. Each site considered by the County shall be placed in one of three categories based on the following criteria:

1. If the resource site meets the definition of a significant site, the county shall include the site on an inventory of "Significant Sites", or

2. If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites." Sites shall remain on the "Potential Sites" inventory until such time as information is available to determine whether or not the site is significant; or

3. If the resource site does not meet the definition of a significant site, the county shall include the site on an inventory of "Non-significant Sites'.

D. Identify Impact Area. For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area.

E. Identify Conflicting Uses. For each significant site, conflicting uses shall be identified. The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).

F. Analysis of ESEE consequences. For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.

1. The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.

2. The ESEE analysis shall be limited to uses identified pursuant to subsection E. of this section, and County resources.

3. The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:

a. The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining;

b. The consequences of allowing mining fully, notwithstanding the possible effects on conflicting uses;

c. The consequences of protecting conflicting County resources, and permitted conflicting uses within the zone.

Section 3.804 - Exemptions

The following activities at significant sites are exempt from the development standards of Section 3.807. Operators or land owners have the burden of qualifying for any exemption.

A. Pre-existing or nonconforming use.

B. Mining less than 1000 cubic yards of material or excavation preparatory to mining of a surface area of less than one acre.

C. Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of

reconstruction or maintenance of on-site access roads or grading operations conducted in the process of farming.

D. Excavation or grading operations conducted in the process of farming, forestry or cemetery operations.

E. On-site road construction or other on-site construction or non-surface impacts of underground mines conducted by a landowner or tenant on the landowner or tenant's property.

Section 3.805 - Pre-Existing and Nonconforming Uses
Mineral and aggregate sites which have a valid County or Department of Geology and Mineral Industries permit on the effective date of this Chapter shall be considered pre-existing sites. Pre-existing sites may continue to operate under the conditions of approval unless the conditions are removed or modified through the County process.

Expansion of a mineral and aggregate activity on a pre-existing site beyond the boundaries of the surface mining area covered by the County permit, or any activity requiring a new or amended County permit, shall require compliance with Section 3.807 - Development Standards.

Within an Extraction Area, existing mining activities that do not conform to the standards of Section 3.806 - Permitted Uses - Extraction Area, may continue as nonconforming uses existing on the date the Mineral and Aggregate Overlay zone is applied to the property.

The use of any building, structure, or land lawfully established within the Mineral and Aggregate Resource Overlay Impact Area prior to the application of the overlay to the property may continue. Expansion of the size or use of the structure or activity shall comply with Section 3.809 - Impact Area Uses and Standards.

Section 3.806 - Permitted Uses - Extraction Areas
The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.808:

A. Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.

B. Conditional uses shall be reviewed against the approval criteria of Section 3.809.

C. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.

D. Stockpiling and storage of mineral and aggregate materials.

E. Processing of:

1. Materials, including crushing, washing, milling, screening, sizing, or batching of Portland cement; and

2. Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.

F. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

G. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

H. Sale of products extracted and processed on-site from a mineral and aggregate operation.

Section 3.807 - Development Standards - Extraction Area

A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.806. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

A. Screening

1. Mining Activities to be Screened.

a. All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;

b. All processing equipment;

c. All equipment stored on the site.

2. Types of Screening.

a. Natural Screening. Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.

b. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

B. Access

1. On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.

   a. All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;

   b. All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;

   c. All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.

2. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.

3. Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.

4. An effective vehicular barrier or gate shall be required at all access points to the site.

C. Hours of Operation

1. Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.

2. Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance **or within 1000' of a residence** is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are ~~limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.~~**subject to site specific review including consideration of:**

a. The safety of workers

b. Impacts on road traffic

~~a.~~**c. Impacts on adjacent properties related to noise, light, and air quality.**

D. Environmental Standards

1. DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.

E. Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

F. Performance Agreement

1. The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.

2. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least $1,000,000.00.

G. Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically

significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.

H. Site Reclamation.

1. No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.

2. A reclamation plan shall be submitted concurrently with the development plan required in Section 3.807. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.

3. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.

   a. If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

   b. If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.

I. Water Management

1. All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.

2. All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b)

shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

J. Flood Plain. Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.

K. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.

L. Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

Section 3.808 - Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.806, and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

A. A site plan demonstrating that the development standards required in Section 3.807 can be met, and any requirements adopted as part of the County process, including:

1. Screening and Fencing;
2. Access;
3. Hours of Operation;
4. Environmental Standards;
5. Equipment Removal;
6. Performance Agreement;
7. Significant Resource Area Protection;
8. Site Reclamation;
9. Water Management; and

10. Flood Plain.

B. A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

C. The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.807 and any other requirements adopted as part of the County process.

D. If the County determines that the site plan is substantially different from the proposal approved in the County process, the application shall be denied or conditioned to comply with the decision adopted as part of the County process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the County process will be re-examined based on the revised site plan.

Section 3.809 - Impact Area - Uses and Standards

A. Any permitted use allowed in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.

B. Uses allowed Conditionally.

1. Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.

2. Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D - Review Criteria.

C. Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.

D. Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria:

1. The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

2. The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter, or the terms of a state agency permit. The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, showing that applicable DEQ noise control standards are met or can be met by a specified date by the nearby mining operation.

3. Any setbacks or other requirements imposed through the County process have been met or can be met by a specified date.

E. Approval Conditions.

1. Compliance with subsection D of this section may be satisfied through the imposition of clear and objective conditions of approval.

2. Approval of any conflicting use in the impact area shall be conditioned upon execution of a restrictive covenant in favor of the mining operator. The restrictive covenant shall incorporate all approval conditions and an agreement not to object to the conduct of lawful operations conducted at the nearby surface mine.

F. Waiver of Remonstrance and Indemnity.

1. The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

2. The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.

3. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.

Section 3.810 - Designation of Overlay Zone

The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.810 of this Ordinance have been met. ~~(Amended 9-93)~~ The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

Section 3.811 - Termination of Mineral and Aggregate Overlay Zone

The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

A. The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

B. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

C. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

Section 3.812 – Relationship to Base Zones

A. Land located in this overlay zone **is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.**

Section 3.900 - Reservoir Overlay Zone (OZ~~EPD~~-6)

Section 3.900 - Reservoir Overlay Zone (OZ-6) 1
Section 3.901 - Purpose 1
Section 3.902 - Applicability 1
Section 3.903 - Permitted Uses and Procedure for Applying the Overlay Zone 2
Section 3.904 - Sensitive Resource Plan and Plan Review Process 2
Section 3.905 - Review Considerations 3
Section 3.906 - Hardship *Variance* 4
Section 3.907 - Relationship to Base Zones 4

#

Section 3.901 - Purpose

This overlay zone is for reservoir areas identified in the Comprehensive Plan through the safe harbor rules. The purpose of this overlay district is twofold:

A. To conserve important riparian areas by providing supplementary development standards; to protect existing riparian values and permit development compatible with protection of riparian resources within the mapped fifty (50) foot riparian corridor surrounding the reservoirs and selected streams or rivers.

B. To require notification of Oregon Department of State Lands **(DSL)** concerning applications for development permits or other land use decisions affecting wetlands on the adopted wetland inventory.

Section 3.902 - Applica**bility**~~tion of Provisions~~

A. This overlay district shall be applied to all potential riparian areas identified in the Comprehensive Plan within the fifty (50) foot safe harbor riparian corridor. The fifty (50) foot safe harbor riparian corridor shall be measured perpendicular to the operational high pool elevation of each reservoir and from ordinary high water for other selected streams, ponds, or rivers.

B. Those areas of the 50 foot safe harbor riparian corridor not identified as potential riparian areas on the riparian corridor map are not subject to sensitive area review.

C. If an applicant can successfully demonstrate that the inventory map documenting the presence of the riparian area is shown to be in error and that the on-site conditions are determined by a qualified professional not to provide riparian values, the area demonstrated to provide no riparian values will not be subject to sensitive area review. ODFW will be consulted to determine the adequacy of information submitted by the applicant.

D. The notification requirements are applied to all wetlands on the current version of the ~~National~~ **State** Wetland Inventory ~~as it may be modified by the State Wetland Inventory~~ as adopted by reference and made part of the County's Comprehensive Plan.

Section 3.903 ~~–~~ Permitted Uses and Procedure for Applying the Overlay Zone

A. Development or ground disturbance resulting in permanent alteration of the identified potential riparian areas shown on the safe harbor riparian corridor map is restricted. Only the following uses may be permitted provided the applicant is able to demonstrate, through the sensitive resource plan review process, that intrusion into the riparian area has been minimized and mitigated where deemed necessary**:** ~~.~~

1. Streets, roads and paths,

2. Drainage facilities, utilities, and irrigation pumps,

3. Water-related and water dependent uses, and

4. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

5. Removal of vegetation only when it is either**:**

   a. non-native vegetation removed for the purpose of replacing non-native with native vegetation, or

   b. vegetation that must be removed for the development, redevelopment, or maintenance of water related or water dependent uses

   c. vegetation that is removed to accommodate farm or forest practices permitted pursuant to statewide planning Goals 3 or 4 on land zoned for farm or forest use.

B. The county shall notify the Oregon DSL and the Oregon Department of Fish and Wildlife (ODFW) of any development application for land within a wetland identified on the State Wetland Inventory.

Section 3.904 - Sensitive Resource Plan and Plan Review Process

A. Completed **site** ~~plot~~ plan and sensitive resource plan review requests shall be submitted by the County to ODFW for comment. ODFW shall have 20 days from the date that the sensitive resource plan is mailed, to submit written comments to the County. If the County does not receive a response form ODFW within this time period, the County shall proceed to process the applicant's request. A completed sensitive resource plan shall contain the following elements:

1. A **site** ~~plot~~ plan drawn to scale showing the location of all existing and proposed development including existing and proposed roads, driveways and structures.

2. Description of the general slope and aspect of the ground within the potential riparian area.

3. Description of the operating characteristics of the proposed use including times when activity within the potential riparian area would disturb surface soil, generate vibration, or deter wildlife use of the area.

4. Description of steps taken to avoid impacts to sensitive areas where possible and to minimize and mitigate for impacts in sensitive areas where impacts cannot be avoided.

5. Timing of construction activities including grading or filling land, hauling materials and building.

6. Description of existing vegetation and vegetation to be removed for the proposed development or ground disturbing activity.

B. Based upon the record and evaluation of the proposal, the Planning Director or designee shall approve or reject the sensitive resource plan and protection measures. If a sensitive resource plan review request is rejected the applicant may alter the sensitive resource plan and protection measures to achieve compliance with the applicable criteria.

1. Submittal of an altered sensitive resource review request will be considered a new application and will not be subject to limitations on re submittal of similar applications.

2. Once deemed complete, the County will proceed to process altered sensitive resource plan review requests as a new land use application.

Section 3.905 - Review Considerations

A. The following factors shall be considered when sensitive resource plans and proposed protection measures are reviewed:

1. Where possible new ground disturbances will be located to avoid impact to potential riparian areas. If location of a new ground disturbance is necessary within potential riparian areas the County will work with ODFW and the applicant to identify necessary steps to minimize potential impacts to riparian values. Mitigation may be required. If required, the applicant shall create, restore or enhance an area to provide equal or greater riparian value to that being disturbed.

2. Existing vegetation or other landscape features within the riparian area, which are confirmed to provide critical habitat values, shall be preserved and maintained. A restrictive covenant to preserve and maintain vegetation shall be required when specified through the sensitive resource plan review.

3. No partitions or subdivisions shall be permitted which would force location of a dwelling structure or other ground disturbing activity, not otherwise permitted on the site to be allowed within the sensitive habitat area.

Section 3.906 - Hardship *Variance*

A. Hardship *variance* from the provisions limiting permanent alteration of identified riparian areas shown on the safe harbor riparian corridor map may be permitted upon a demonstration that the following conditions exists: (Chapter 6 and 7 do not apply).

1. A legally created *lot* or *parcel* can be demonstrated to be rendered undevelopable by strict adherence to the restrictions to development or ground disturbance resulting in permanent alteration of the identified riparian areas shown on the safe harbor riparian corridor map.

2. The need for the *variance* can be determined not to be the result of a self-created hardship.

3. Approval of the *variance* would not be materially detrimental to property in the same zone or vicinity in which the property is located.

4. In any case the *variance* shall be the minimum necessary to alleviate the hardship.

Section 3.907 - Relationship to Base Zones

A. Land located in the Reservoir Overlay Zone (~~EPD~~**OZ**-6), is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, **the more restrictive regulation or standard** shall apply.

Section 3.910 - Natural Areas, Wild and Scenic Rivers and Oregon Scenic Waterways Overlay (~~EPD~~OZ-7)

Section 3.910 - Natural Areas Overlay (OZ-7)..... 1
Section 3.911 - Purpose..... 1
Section 3.912 - Applicability..... 1
Section 3.913 - Permitted Uses..... 1
Section 3.914 - Approval Standards..... 2
Section 3.915 - Relationship to the Base Zones..... 2

Section 3.911 - Purpose

~~**Purpose: This overlay district is intended to preempt conflicting use in areas identified in the Wasco County Comprehensive Plan as containing significant natural value. The overlay is designed to protect the identified natural value by allowing only uses which will not permanently destroy the natural value. This overlay applies to all natural areas identified in the Wasco County Comprehensive Plan and to the Wasco County portions of the Deschutes, John Day, and White Rivers designated as Wild & Scenic Rivers as defined and protected in ORS 390.805 & 390.826 or USFC & CFR.**~~

Consistent with Goal 5, the purpose of this overlay district is to protect Natural Areas (OAR 660-023-0160), Federal Wild and Scenic Rivers (OAR 660-023-0120), and Oregon Scenic Waterways (OAR 660-023-0130). These resources have been identified and inventoried in the Wasco County Comprehensive Plan.

Section 3.912 ~~–~~- Applicability

Natural Areas are designated sites listed in the Oregon State Register of Natural Heritage Resources, the Wasco County Comprehensive Plan, and on the Wasco County Comprehensive Plan Zoning Map.

The White River is a Federally Designated Wild and Scenic River and is also listed as a protected resource in the Wasco County Comprehensive Plan and Comprehensive Plan Zoning Map.

The John Day and Deschutes Rivers are designated Oregon Scenic Waterways and are also listed as protected resources in the Wasco County Comprehensive Plan and Comprehensive Plan Zoning Map.

Section 3.~~911~~ 913 - Permitted Uses

~~Uses allowed in the underlying zone shall be subject to the conditional use review permit pursuant to Section 2.060(A) of this Ordinance.~~**Consistent with the Wasco County**

Comprehensive Plan, all uses allowed in the underlying zones ~~are~~may be permitted ~~but~~ subject to conditional use criteria and review.

Section 3.~~912~~ 914 - Approval Standards

In the evaluation of any use subject to the Natural Area Overlay, finding shall be required demonstrating that the designated natural value will not be damaged by the use or activity. If a proposed use or activity would result in the permanent destruction of natural value, then the request shall be denied.

All applications are also subject to the conditional use procedures and criteria, as listed in Chapter 5. Applications within the overlay zone protections for the Oregon Scenic Waterways are also subject to the following:

A. The Bureau of Land Management, Oregon State Department of Transportation and the Warm Springs Indian Reservation shall be notified of all proposed land actions with the Deschutes River and John Day River Scenic Waterways areas for their review and comment.

B. Landowners proposing development along the Deschutes and/or John Day Rivers must notify the Oregon Parks and Recreation Department (OPRD). The landowner shall make notification on OPRD forms and submit directly to OPRD.

Section 3.915 ~~–~~- Relationship to the Base Zones

A. **Land located within this overlay zone is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.**

~~* White River is designated as an Outstanding Scenic Recreation Area (requires CUP review). See Table 11; Page 5-19 or Comprehensive Plan.~~

Section 3.930 - Big Muddy Limited Use Overlay (OZ 9)

Section 3.930 - Big Muddy Limited Use Overlay 1
Section 3.931 - Purpose 1
Section 3.932 - Applicability 1
Section 3.933 - Permitted Uses 1
Section 3.934 - Conditional Uses 1
Section 3.935 - Development Standards 2
Section 3.936 - Limitations 2
Section 3.937 - Relationship to the Base Zone 3

Section 3.931 - Purpose

~~Purpose:~~ The purpose of the Big Muddy limited use overlay is to assure that the development and operation of a youth/family camp in the Big Muddy exception area (adopted as part of the Wasco County Comprehensive Plan by Ordinance No. 97-001) occurs in a manner that is consistent with the purpose and intent of the Big Muddy Exception ("Exception") and limits uses and activities allowed in the underlying Agricultural-Recreational (A-R) Zone to only those uses and activities which are justified in the Exception adopted as part of the County's plan by Ordinance No. 97-001.

Section 3.932 - Applicability

This overlay zone applies exclusively to the Big Muddy/Washington Family Ranch Exception Area as inventoried in the Wasco County Comprehensive Plan.

Section 3.~~931~~ 933 - Permitted Uses

A. Use of buildings **lawfully established**~~existing~~ on **or before September 18, 1997** ~~the date of adoption of this Section~~ consistent with the Exception.

B. Renovation and relocation of buildings **lawfully established** ~~existing~~ on **or before September 18, 1997** ~~the date of adoption of this Section~~ consistent with the Exception to the extent that the renovation or relocation does not increase the building footprint.

Section 3.~~932~~ 934 - Conditional Uses

A. The following are Conditional Uses in the Big Muddy limited use overlay:

1. New buildings for youth/family camp purposes.

2. Expansion of existing buildings for youth/family camp purposes.

B. Approval Criteria: Approval of a Conditional Use in the Big Muddy limited use overlay shall be based on a demonstration that the following four criteria are met:

1. Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and the Exception.

2. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical services, or solid waste disposal facilities.

3. The proposed use will not significantly reduce or impair sensitive wildlife habitat or riparian vegetation along streambanks and will not subject areas to excessive soil erosion.

4. The proposal will not significantly increase the cost of or cause a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.

C. Conditions: Such reasonable conditions as are necessary to ensure the compatibility of a conditional use to surrounding properties and to fulfill the purposes of the Big Muddy limited use overlay may be imposed in approving a conditional use permit application.

D. Applicability of Conditional Use Review Standards: Conditional uses in the Big Muddy limited use overlay shall be subject only to the following sections of Chapter 5, Conditional Use Review: Sections 5.040, 5.050 and 5.060.

Section 3.~~933~~ 935 - Development Standards

A. Lighting: Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties and roadways.

B. Setbacks: No new structure other than fences or signs shall be located closer than twenty-five (25) feet from the right-of-way of a public road.

C. Height: Maximum height for all buildings shall be 50 feet.

Section 3.~~934~~ 936 - Limitations

A. No partitioning or subdividing shall be allowed in the Big Muddy limited use overlay.

B. No temporary housing shall be permitted in the Big Muddy limited use overlay, except as necessary to house construction personnel/workers during construction and remodeling on site.

C. All new structures shall be located within the Development Area as provided for in the Exception.

D. Uses in the Big Muddy limited use overlay shall be limited to the youth/family camp as provided for in the Exception.

Section 3.937 - Relationship to the Base Zone

A. Land located within this overlay zone is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.

Section 3.940 - Badger Creek Limited Use Overlay (OZ-10)

Section 3.940 - Badger Creek Limited Use Overlay (OZ-10) 1
Section 3.941 - Purpose 1
Section 3.942 - Applicability 1
Section 3.943 - Permitted Uses 1
Section 3.944 - Conditional Uses 1
Section 3.945 - Limitations 2
Section 3.950 – Relationship to Base Zones 2

Section 3.941 - Purpose

~~Purpose:~~ The purpose of the Badger Creek Limited Use Overlay is**:**

A. ~~(a)~~ to assure that the development and use of the Badger Creek exception area (adopted as part of the Wasco County Comprehensive Plan by Ordinance No. 99-112) occurs in a manner that is consistent with the purpose and intent of the Badger Creek Exception ("Exception")**;** and ~~(b)~~

B. to limit uses and activities in accordance with the Exception.

Section 3.942 - Applicability

This overlay zone applies exclusively to the Badger Creek Exception Area as inventoried in the Wasco County Comprehensive Plan.

Section 3.~~941~~ 943 - Permitted Uses

A. Residential uses **lawfully established** ~~as of the effective date of this Ordinance~~**on or before March 17, 1999** shall be allowed to remain.

B. **Lawfully established** ~~Existing~~ residential dwellings may be replaced, altered or restored. Replacement may be to another place on the lot or parcel within the "Development Area" as shown on the Badger Creek Limited Use Overlay Map. The replacement dwelling shall be subject to the Property Development Standards of the (F-F(10)) Zone.

Section 3.~~942~~ 944 - Conditional Uses

A. Additional single-family dwellings not in conjunction with farm or forest use only on sites identified as future residences on the "Development Area" as shown on the Badger Creek Limited Use Overlay Map.

B. Conditional uses shall be subject to the provisions of Chapter 5, Conditional Use Review of this code.

C. Home occupations which shall also be subject to Chapter 20, Site Plan Review.

Section 3.~~943~~ 945 - Limitations

A. No partitioning or subdividing shall occur if any of the resulting parcels or lots are less than ten (10) acres in size.

B. All new structures not provided in conjunction with a forest or farm use shall be located within the "Development Area" as shown on the Badger Creek Limited Use Overlay Map.

C. Partitions shall be allowed only for parcels containing a homesite (either an existing or new dwelling homesite) that is identified on the Badger Creek Limited Use Overlay Map. Partitions around any homesite shall not result in the creation of an undevelopable remnant parcel.

Section 3.950 – Relationship to Base Zones

A. Land located in this overlay zone **is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.**

Section 3.960 - Sensitive Bird Site Overlay (~~EPDOZ~~**OZ**-12)

Section 3.960 - Sensitive Bird Site Overlay (OZ-12) 1
Section 3.961 - Purpose 1
Section 3.962 - Applicability 1
Section 3.963 - Exempt Uses 1
Section 3.964 - Procedure for Applying the Overlay Zone 2
Section 3.965 - Applicable Criteria 2
Section 3.966 - Threatened and Endangered Species 3
Section 3.967 - Interim Protection of Sensitive Bird Habitat Sites 3
Section 3.968 - Relationship to Base Zones 4

Section 3.961 - Purpose

The Purpose of the Sensitive Bird Site Overlay is to insure that sensitive habitat areas identified in the County's Goal 5 Sensitive Bird Inventory as critical for the survival of **sensitive bird species** ~~the golden eagle and prairie falcon~~ are protected from the effects of conflicting uses or activities which are not subject to the Forest Practices Act.~~–~~ This objective shall be achieved by implementation of the decision resulting from the economic, social, environmental and energy (ESEE) analysis for each inventoried habitat area.

Section 3.~~961~~ 962 - Applicability

Sensitive bird site protection measures are applicable to all uses in the underlying zone(s).

A. Any use permitted or permitted conditionally in the zone is subject to the sensitive resource review procedure if located within the sensitive habitat protection area identified for the inventoried significant site.

B. Land divisions **and property line adjustments** of parcels ~~including~~ **within a** sensitive habitat protection area shall be reviewed to determine the need for sensitive resource review specifically considering review criterion Section 3.963 E.

~~A.~~**C.** The sensitive resource review requirement and resulting protection measures are applicable in addition to and shall be applied concurrently with all other applicable standards and criteria in the county LUDO.

If setbacks or buffers specified in this ordinance overlap or conflict, they should be varied in a manner to achieve, to the greatest extent possible, the overall protection of affected resources and public interest.

Section 3.963 ~~–~~ Exempt Uses

A. Forest practices subject to ORS 527.610 to 527.770 and farm practices defined by ORS 30.947(2) are not regulated by the sensitive bird site overlay **and are exempt from review**~~.~~

Section 3.~~962~~ 964 - Procedure for Applying the Overlay Zone

A. Sensitive resource plan elements and description required for completed sensitive resource review application include the following:

1. A plot plan drawn to scale showing the location of all development including existing and proposed roads, driveways and structures.

2. Description of the operating characteristics of the proposed use including times when activity within the sensitive bird habitat area would generate noise, dust, vibration, lights, traffic or be visible from the nest site.

3. Timing of construction activities including grading or filling land, hauling materials and building.

4. Description of existing vegetation and vegetation to be removed for the proposed development.

B. Completed plot plan and sensitive resource plan review requests shall be submitted by the County to ODFW for comment.~~–~~ ODFW shall have 20 days from the date that the sensitive resource plan is mailed to the agency, to submit written comments to the County.~~–~~ If the County does not receive a response form ODFW within this time period, the County shall proceed to process the applicant's request.

C. Based upon the record, and evaluation of the proposal based on applicable criteria and review of the site specific ESEE analysis in the Comprehensive Plan, the Planning Director or designee shall approve or reject the sensitive resource plan.~~–~~ If a sensitive resource plan review request is rejected the applicant may alter the sensitive resource plan to achieve compliance with the applicable criteria.

D. Submittal of an altered sensitive resource plan review request will be considered a new application and will not be subject to limitations on re submittal of similar applications.

E. Once deemed complete, the County will proceed to process altered sensitive resource plan review requests as a new land use application.

Section 3.~~963~~ 965 - Applicable Criteria
Approval of a sensitive resource plan review request shall be based on the following criteria:

A. The approved sensitive resource plan shall consider the biology of the identified sensitive species, nesting, trees, critical nesting periods, roosting sites and buffer areas. Based on the biology of the species and the characteristics of the site, sensitive resource

protection measures shall be applied to provide protection that will prevent destruction of the subject nesting site and will, reasonably avoid causing the site to be abandoned.

B. Development activities likely to result in disturbance to the resource shall be avoided where possible in the sensitive habitat protection area.~~–~~ If it is impossible to locate a temporary or permanent disturbance outside the sensitive habitat protection area the impacts of the proposed use will be minimized to the greatest extent possible. Activities within the habitat protection area that are likely to result in disturbance to the habitat protection area will be prohibited during the nesting season identified in the site specific ESEE analysis for each site.

C. New roads, driveways or public trails shall be located at the greatest distance possible from the nest site unless topographic vegetation or structural features will provide greater visual protection and/or noise buffer from the nest site.

D. Existing vegetation or other landscape features which are located on the subject property and obscure the view of the nest from the proposed structure or activity shall be preserved and maintained.~~–~~ A restrictive covenant to preserve and maintain vegetation shall be required when specified in the ESEE for the site.

E. No partitions**,** ~~or~~ subdivisions**, or property line adjustments** shall be permitted which would force location of a dwelling or other structure, not otherwise permitted by the site specific ESEE, within the sensitive habitat protection area.

F. All exterior lighting, including security lighting, located within the designated sensitive habitat protection area shall be sited and shielded so that the light is directed downward and does not shine on the subject nest site.

G. The sensitive resource plan and resulting development shall conform to the requirements of the ESEE analysis for the specific significant sensitive bird site. Sensitive habitat plan reviews resulting in approvals will include necessary protection measures, as conditions of approval, to ensure protection of sensitive habitat areas.

Section 3.~~964~~ 966 - Threatened and Endangered Species

Upon receipt of an application for an action or development which will potentially disrupt a habitation or breeding site of a species listed as endangered by the U.S. Fish and Wildlife Service, the County will require verification of Federal coordination and review prior to deeming the application complete and initiating the local review process.~~–~~ ODFW will be consulted in the development and approval of the plan and will also coordinate with federal regulators during their review of the sensitive resource protection.

Section 3.~~965~~ 967 - Interim Protection of Sensitive Bird Habitat Sites

Any parcel within a quarter mile of a sensitive bird site, not yet deemed significant but acknowledged for interim protection under the applicable Comprehensive Plan policy, shall

forego any land use development, partitioning, building or on-site septic construction, except for emergency repairs, until such time as the County has the opportunity to consult with ODFW. Consultation with ODFW will be held to determine whether an unacceptable level of interference would result from approval of the proposed action or activity. Only those activities deemed to have no more than an acceptable level of interference with the use or long term value of the potentially significant sensitive bird site will be permitted.

Interim wildlife protection granted under this section is only valid for a maximum of 120 days from the date the County acknowledges the need for interim protection to be applied.

Section 3.968 ~~–~~- Relationship to Base Zones

A. Land located in the Sensitive Bird Overlay Zone, is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.

Section 3.980 - Camp Morrow Limited Use Overlay (OZ-14)

Section 3.980 - Camp Morrow Limited Use Overlay (OZ-14) 1
Section 3.981 - Purpose 1
Section 3.982 - Applicability 1
Section 3.983 - Permitted Uses 1
Section 3.984 - Conditional Uses 1
Section 3.985 - Development Standards 2
Section 3.986 – Relationship to the Base Zone 3

Section 3.981 - Purpose

~~Purpose:~~ The purpose of the Camp Morrow Limited Use Overlay (LUO) is to assure that development and operation of the youth/family camp in the Camp Morrow LUO and Badger Creek exception area (adopted as part of the Wasco County Comprehensive Plan by CPA-06-101) occurs in a manner that is consistent with the purpose and intent of the Camp Morrow exception area ("Exception"). The LUO limits uses otherwise allowed in the Agricultural Recreation zone (A-R) to only the uses and activities justified in the Badger Creek exception.

Section 3.982 - Applicability

This overlay zone applies exclusively to the Camp Morrow Exception Area inventoried in the Wasco County Comprehensive Plan.

Section 3.~~981~~ 983 - Permitted Uses

A. Use of all lawfully established development existing on **or before November 14, 2006**~~the site on the date of adoption of this sectio~~n, consistent with the exception.

B. Renovation, replacement, and relocation of lawfully established development (structures and other improvements) existing on **or before November 14, 2006**~~the date of adoption of this Section~~ and consistent with the exception to the extent that relocation does not increase the capacity of the camp. ~~(e.g. cabins may be replaced with larger cabins or with units providing attached bathrooms as long as overall sleeping capacity is not increased)~~

Section 3.~~982~~ 984 ~~–~~- Conditional Uses~~Uses Subject to Conditional Use Review~~

A. The following uses are subject to conditional use review in the Camp Morrow LUO:

1. New buildings for youth/family camp purposes (e.g. new recreation hall, new cabins not replacing existing cabins, or new community center)

2. Expansion of existing buildings for youth/family camp purposes (e.g. expanding capacity of existing kitchen/dining hall or adding beds to a bunk house that are not replacing existing beds)

3. New structures necessary for expanded youth and family camp activities

B. Review Criteria for uses subject to review in the Camp Morrow LUO include:

1. The proposed use is compatible with uses anticipated in and justified by the Exception.

2. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical services, or solid waste disposal facilities.

3. The proposal will comply with all setbacks in the zone and Goal 5 buffer areas applicable to resource areas identified on the site (e.g. riparian or wildlife areas).

4. The proposal will not significantly increase the cost of or cause a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.

C. Conditions: Such reasonable conditions as are necessary to ensure the compatibility of a conditional use to surrounding properties and to fulfill the purposes of the Camp Morrow limited use overlay and Badger Creek Ranch exception may be imposed in approving a conditional use permit application.

D. Applicability of Conditional Use Review Standards: Conditional uses in the Camp Morrow LUO shall be subject only to the following sections of Chapter 5, Conditional Use Review: Sections 5.040 - Revocation of a Conditional Use Permit and 5.050 - Pre-existing uses classified as conditional uses in the ordinance.

Section 3.~~983~~ 985 - Development Standards

A. Lighting: Outdoor lighting shall be sited, limited intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties and roadways.

B. Setbacks, Height Limits, Driveway Standards, Sign Standards, and Stream or Lake Buffers applicable in the A-R zone are applicable in the Camp Morrow LUO area.

C. Parking:

1. 2 on site vehicle spaces, in addition to RV space, per employee or full season camp volunteer.

2. On site loading and unloading area.

D. No land divisions are allowed.

Section 3.986 – Relationship to the Base Zone

A. **Land located within this overlay zone is subject to the requirements and standards of this Chapter in addition to those specified in the underlying zone. If a conflict in regulation or standards occurs, the more restrictive regulation or standard shall apply.**

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



The drafts are created using track changes in Microsoft Word.

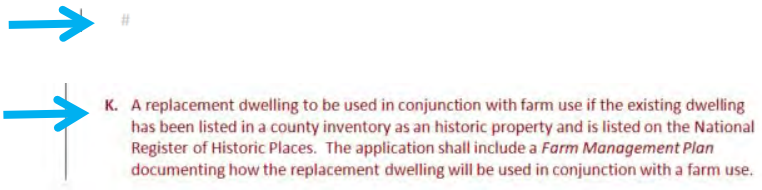
The key to the left is a reference for how revisions are marked up in the draft.

The bold, blue text shows new text. Text with a line through it, in light grey, is proposed to be deleted.



Text underlined by a wavy line is optional.

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



Chapter 21

- (Page 1, Introduction) The introductory paragraph was revised to more accurately reflect State Law.
- (Pages 1-2, Section 21.010) Additional purpose statements were added that reflected the policies and implementation strategies adopted in Wasco County 2040, the Comprehensive Plan.
- (Pages 2-7 , Section 21.020) The revisions in this section reflect reference updates, streamlining of language/word choice, and clarifications of criteria based on analysis of state law. The irrigation district notification language is a required update resulting from the passage of Senate Bill 865 (2017).
- (Page 8 -9, Section 21.020) Staff is recommending clear and objective flag lot standards to be in conformance with ORS 197.307 (4). These standards are best practices throughout the state and have been approved by counsel as consistent with common practice. These criteria are necessary to be able to mitigate flag lot development.
- (Page 9-10, Section 21.020(Z)) The public open space language was revised to make more sense. Staff is also proposing language requiring a maintenance agreement for publicly dedicated space, as recommended by the public during Wasco County 2040. These provisions are specifically for subdivisions or planned unit developments.
- (Page 12, Section 21.030) The Technical Advisory Group advised the requirement for preliminary title report at the time of application to help identify any potential obstacles to approving the land division. They also wanted the language requiring an updated preliminary report, if changes have been made, ahead of final plat review as required by law. Staff also added in the necessary language for an affidavit of consent for all owners and lienholders on land use planning actions. Also in this section is language on series partitioning, consistent with ORS 92.
- (Page 13, Section 21.030) Staff and the Technical Advisory Group recommended the addition of an extension for a preliminary plat understanding costs and coordination involved in the process. Other edits on this page clean up the language to be consistent with state law and remove arbitrary criteria.
- (Pages 14-15, Section 21.030) These revisions reflect more accurately state law. This includes summarizing state law (ORS 209.250), and instead placing a direct citation as recommended by the Technical Advisory Group.
- (Pages 20-23) Revisions represent better alignment with state law and clarity of rules recommended by the Technical Advisory Group. Replats and property line adjustments have been decoupled because the processes are significantly different, replats being aligned with partitions or subdivision procedures.
- (Pages 26-27, Section 21.100) Staff and the Technical Advisory Group recommend a revision to the development phasing section of subdivisions.. This revision allows for 24 months for the phase, rather than 12, which accounts for costs and coordination associated with subdivisions.

Chapter 22

- (Page 1, Section 22.020) Revisions reflect requirements in Chapter 10 (Fire Safety Standards).
- (Page 2, Section 22.020) The Public Works Department no longer maintains a sign program, thus necessitating new signs to be installed by the applicant/developer.
- (Page 3, Section 22.020) New criteria related to road standards, consistent with new policies in Wasco County 2040, were added including a waiver of remonstrance or fees in lieu of construction for roads.
- (Pages 4-80) These revisions reflect reference corrections or updates consistent with state law.
- (Page 9) Changes to road standards are consistent with fire safety standards. Also on this page is the ability for the Public Works Director to review road standards, consistent with current practice.
- (Page 10) New criteria was added to be consistent with Wasco County 2040 policies and state law.
- (Pages 11-15) Minor clean up revisions, including reference corrections.
- (Page 16) This Section was moved from page 26 in the Road Standards and the criteria was revised to reflect changes to policy and state law.

All other edits are corrections, state law updates, or title updates and are mandatory.

CHAPTER 21 - LAND DIVISIONS

Section 21.010 - Purpose 1
Section 21.020 - Basic Provisions and Design Standards 2
Section 21.030 - Land Partitioning Approval 10
Section 21.040 – Amendments to a Recorded Plat 19
Section 21.050 - Property Line Adjustment Application Requirements 20
Section 21.060 - Property Line Adjustment Approval Standards 20
Section 21.070 - Final Property Line Adjustment Map Requirements 22
Section 21.080 - Survey Requirements for Property Line Adjustments 22
Section 21.090- Replats 22
Section 21.100 - Preliminary Subdivision Plan Approval 23
Section 21.110 - Final Subdivision Plat Approval Requirements 27

~~As authorized by law, including Oregon Revised Statutes Chapters 92, 197, and 215, subdivisions **and**, partitions, replats and property line adjustments and streets created for the purpose of partitioning land **and replats and property line adjustments** shall be approved in accordance with this Chapter.~~ Th**is**~~e~~ Chapter applies to all land within the unincorporated territory of the County. **All land divisions, replats, and property line adjustments shall be approved in accordance with this Chapter and Oregon Revised Statutes (ORS) Chapters 92, 197 and 215.** A person desiring to subdivide**, partition, or replat** land**, to adjust a property line**, ~~to partition land,~~ or to create a street or a private road shall submit preliminary plans and final documents for approval as provided in this Chapter**, Chapter 2** and state statutes.

Section 21.010 - Purpose

In accordance with the provisions of ORS Chapters 92, 197, and 215, this Ordinance sets forth the minimum standards governing the approval of land **divisions**~~development~~, including subdivision**s**, partition**s**, replats, and property line adjustments as necessary to carry out the Wasco County Comprehensive Plan and to promote the public health, safety and general welfare. The purpose of these provisions and regulations are to:

A. Encourage well planned ~~subdivision and partition~~ development to the end that good livable neighborhoods with all needed amenities and community facilities may be created.

B. Encourage development in harmony with the natural environment and within resource carrying capacities.

C. Safeguard the interest of the public, the applicant, and the future lot owner.

D. **Ensure adequate lot and** parcel sizes **for homesites and other development;**

E. **Encourage safe and convenient access;**

F. **Ensure adequate sanitation and water supply services;**

G. **Protect the public from pollution, flood, fire, landslides, and other hazards to life and property;**

H. Improve land records and boundary monumentation.

I. **E**~~I~~nsure equitable processing of subdivision plats and partitioning plans, and accomplish to the greatest extent possible the goals and objectives of the Comprehensive Plan for Wasco County.

A~~No~~ person may **not** subdivide or partition land within Wasco County except in accordance with ORS Chapter 92 and the provisions of this Ordinance.

~~Section 21.020 - Definitions~~
~~The definitions set forth in Section 1.090 of this Ordinance shall be utilized for the purposes of this chapter.~~

Section 21.020 - Basic Provisions and Design Standards

A. Compliance Required: No land within the unincorporated territory of Wasco County shall be subdivided or partitioned, ~~and~~ no plat shall be filed or recorded**, and no property line adjustment shall be filed or recorded** until submitted to and approved by the Approving Authority.

~~A.~~**B.** **All subdivision and partition proposals shall comply with** ~~conform to state regulations in Oregon Revised Statute (~~**ORS**~~)~~ **Chapter 92, Subdivisions and** ~~p~~**Partitions**

~~B.~~**C.** Minimum Standards: The requirements and standards set forth in this chapter are the minimum ones to which a subdivision or partition must conform before approval by the Approving Authority.

~~C.~~**D.** Conformity with the Comprehensive Plan: All divisions of land shall conform to ~~and be in harmony with~~ the **applicable provisions of the** Wasco County Comprehensive Plan and Comprehensive ~~Plan~~ **Zoning** Map of that portion of the County within which the subdivision and partition lies.

E. Conformity with Zoning Chapter: All **land** divisions ~~of land~~, regardless of the number of lots or parcels, shall comply with all specifications authorized by Chapter 3**, including zone and overlay zone criteria and regulations,** ~~-~~ of this Ordinance. All **lawfully**

established units of land~~lots~~ created shall conform in all respects with the applicable regulations of Chapter 3, including uses of land, lot size and dimensions, **access,** ~~space for~~ off ~~-~~street parking, landscaping and other requirements ~~as may be set forth~~.

F. Prior to approving a preliminary plan for a proposed plat of a proposed subdivision or partition, if the property is located in whole or in part within the boundaries, an easement or a right of way of an irrigation district, drainage district, water control district, or water improvement district, Wasco County shall submit notice of the preliminary plan to the district.

a. Within 15 days of receiving notice, the district may submit to the County a statement containing any information or recommended conditions for approval of the preliminary plan, based on adopted district rules and regulations, for the proposed plat relating to:

i. The structural integrity of irrigation facilities;

ii. District water supply;

iii. Public safety;

iv. Potential liabilities of the district;

v. Other potential exposures to the district.

~~a.~~**b. The County may include the conditions for approval described in the district's comments in the final decision approving the preliminary plan of the proposed plat.**

~~D.~~**G.** Relation to Adjoining Street System: A subdivision or partition shall provide for the continuation of the principal streets existing in the adjoining subdivisions or of their proper projection when the adjoining property is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in these regulations. W~~hen principal streets in adjoining subdivisions or partitions are continued, the width shall meet that of the existing streets. Where the Approving Authority determines that topographic conditions make such continuation or conformity impractical, exceptions may be made as provided for in Section 21.450 of this Chapter.~~

~~E.~~**H.** Redevelopment Plan:

1. ~~In subdividing or partitioning tracts of land into large~~ **When a partition or subdivision will create new large** lots **or parcels that** ~~which~~ at some future time could be further divided, the **Planning** Director shall require that blocks and lots

shall be of such size and shape, be so divided into lots, and meet such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of a smaller size which shall have the minimum lot frontage on a street.

2. No lot in a platted subdivision shall be reduced in size from that shown on the recorded plat if the newly created lot will have less than the minimum lot area for the zone in which it is located.

3. Any lot in a platted subdivision may be enlarged to approximate more closely the minimum lot area for the zone in which the lot is located, provided that no leftover lot areas shall be less than the minimum lot area for the zone.

4. Any person dividing tracts of land into large lots which at some future time could be further divided and still meet the minimum lot size requirement of the zone in which the land is located shall provide ~~suitable~~ road access to each created parcel so that the future development of each parcel will provide access for redevelopment parcels or lots.

~~F.~~**I.** Access: A unit of land shall be considered to have access by way of a public road or street, private road, or private easement road, if the following criteria are satisfied:

1. The unit of land abuts on the road or street.

2. There is a legal right appurtenant to the unit of land to use the road or street for ingress and egress. A legal right to use a private road or private easement road may be evidenced by: (a) an express grant or reservation of an easement in a document recorded with the County Clerk; (b) a decree or judgment issued by a court of competent jurisdiction; (c) an order of the County Governing Body; or, (d) an express easement set forth in a duly recorded plat.

3. The road or street provides actual physical access for the unit of land.

~~3.~~**4. A ~~Properties~~lot or parcel that abuts a public or private road shall contain at least 50 feet of frontage. A~~~~If properties are~~ lot or parcel that is located along the bulb of a cul-de-sac shall have a ~~, the~~ minimum frontage of ~~shall be~~ 30 feet. A ~~Propert~~lot or parcel that is ~~ies~~ served by an easement is~~are~~ exempt from the frontage requirements.**

~~G.~~**J.** Access Requirements for Land Divisions: Each unit of land shall be provided with access by a public road meeting standards noted in Table **22**-1 (Rural Public Roadway Design Standards) & **22**-2 (Urban Public Roadway Design Standards), except as provided below ~~and~~ **or in Chapter 22 and** in Table **22**-3 (Private Access Standards):

~~1.~~ Private Easement Road In all zones**,** a unit of land may have access by way of a private easement road upon a finding that ~~such~~ **the** road provides access for not more than three units of land, serves not more than three ~~-~~units of land, and ~~that~~ the easement ~~is~~**has** a minimum **width of** 30 **feet**~~' in width;~~**.**

~~2.~~

~~The~~ The requirements of Section ~~21.300~~**22.070 do not apply**~~are not applicable~~ to a Private Easement Road.

If the private easement road could provide access for more than three ~~-~~units of land based on existing zoning, structural setbacks shall be established from the potential right of way of the public or private road and not the right of way of the private easement road.

~~3.~~**1.** Private Road In resource areas only (areas zoned F 1, F 2, and A 1), a unit of land may have access by way of a private road upon findings of the Approving Authority that:

a. Such private road provides access for not more than ten units of land and serves not more than ten units of land;

b. Private road approval is obtained pursuant to Section ~~21.300~~**22.070**;

c. **The** ~~P~~**p**rivate road is constructed to standards of Section ~~21.420~~**22.040** when more than three units of land use roadway;

d. The primary use of the road is to provide access for resource activities. Conflicting uses shall be minimized;

e. When service to more than ten units of land is possible, provision shall be made to serve the area by public road, including but not limited to: (a) dedication of right of way; (b) extension and improvement of the roadway to public road standards such that not more than ten units of land may be served.

~~e.~~

f. If the private road could provide access for more than ten units of land based on existing zoning, structural setbacks shall be established from the potential right of way of the public road and not the right of way of the private road.

~~H.~~**K.** Alignment: As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall wherever practical leave a minimum

distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than ~~one hundred twenty five (~~125~~)~~ feet.

~~I.~~**L.** Half Streets: Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the requirements of this Ordinance and when possible to require the dedication of the other half when the adjoining property is subdivided. Whenever an existing half street is adjacent to land to be subdivided, the remaining half of the street shall be dedicated within such subdivision. Reserve strips and street plugs may be required to insure the objectives of obtaining full width streets.

~~J.~~**M.** Streets Adjacent to Railroads, Freeways and Parkways: When a subdivision or partition contains or is adjacent to a railroad, a parallel street may be required on each side of such railroad. A land strip of not less than ~~twenty five (~~25~~)~~ feet in width shall be provided along a railroad right of way for screen planting or park purposes between the railroad and residential lots. Parallel, local service streets shall be provided on each side of a freeway or parkway either within or abutting their right of way. When such parallel streets are less than eighty (80) feet from such freeway or parkway the intervening property shall be used for only park or thoroughfare purposes. Streets paralleling railroads, at those cross streets where grade separations are proposed, shall be located at a distance from the railroad that provides for such grade separation structure.

~~K.~~**N.** Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right of way shall be provided at the time of subdivision or partitioning.

~~L.~~**O.** Future Extension of Streets: Where necessary to give access to or permit a satisfactory future subdivision or partitioning of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead end streets may be approved without a turnaround. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

~~M.~~**P.** Alleys: The minimum width of alleys, when provided in residential blocks, shall be ~~twenty (~~20~~)~~ feet. Alleys shall be provided in commercial and industrial districts and shall not be less than ~~twenty (~~20~~)~~ feet in width. The corners of all alleys at their intersection with streets and other alleys shall be rounded and have a radius of not less than ten ~~(10)~~ feet.

~~N.~~**Q.** Pedestrian Ways: **P**~~When desirable for public convenience, p~~edestrian ways **are**~~may be~~ required to connect to cul-de-sacs or to pass through unusually long or oddly shaped blocks. **If no pedestrian ways currently exist in the vicinity, the applicant will be required to sign a waiver of remonstrance.**

~~O.~~**R.** Cul-de-sacs: ~~In general, dead end (cul-de-sac) streets are not desirable, but if provided,~~**If the street is planned to** ~~shall~~ terminate **in a cul-de-sac, it will be required to be consistent with** ~~in a turnaround that is consistent with~~ Chapter 10 **turnaround standards** ~~and the local fire department.~~**.**

~~P.~~**S.** Street Intersections:

1. All streets shall intersect at right angles (90 degrees) one to the other; where an intersection at ~~ninety (~~90~~)~~ degrees cannot be secured by reason of physical conditions of the site an angular intersection of not less than ~~sixty (~~60~~)~~ degrees may be permitted.

2. Property corners at street intersections shall be rounded and with a radius of not less than ten ~~(10)~~ feet.

3. Major thoroughfares intersections shall have roadway curb radii of not less than ~~twenty five (~~25~~)~~ feet; all other street intersections shall have roadway curb radii of not less than ~~twenty (~~20~~)~~ feet.

~~Q.~~**T.** Reserve Strips: Reserve strips or street plugs dedicated to the County and controlling the access to a street may be approved or required when necessary to:

1. Prevent access to the street on a side where additional width is required to meet the minimum right of way standards;

2. Prevent access to abutting property at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.~~; or~~

~~3. Prevent the uncontrolled development of land.~~

~~R.~~**U.** Marginal Access Streets: Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Approving Authority may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary **to provide buffering for adjacent** ~~for adequate protection of~~ residential properties and to afford separation of through and local traffic.

~~S.~~**V.** Utility Lines: **Utility easements are** ~~provided~~ **required in abutting roads** ~~where necessary~~ **to provide services to proposed lots and parcels, and where necessary to allow for development of adjoining lands. Other utility easements may be required in other locations if specifically requested by a public utility provider. The easements shall be clearly labeled for their intended purpose on the** ~~tentative~~**preliminary plan.** ~~Easements~~

~~for sewers, water mains, electrical lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least twelve (12) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six feet in width.~~

~~T.~~**W.** Water Courses: If a subdivision or partition is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right of way conforming substantially to the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to major water courses may be required.

~~U.~~**X.** Environmental Hazards: If a subdivision or partition contains known hazards resulting from potential for flooding, land movement, high water tables, erosion, or similar natural phenomena, the Approving Authority may require dedication of protective easements for uses that would minimize aggravation of the environmental hazard.

~~V.~~**Y.** Blocks: No block shall exceed ~~twelve hundred (~~1200~~)~~ feet in length between streets. In blocks over ~~eight hundred (~~800~~)~~ feet in length there shall be a cross walkway of not less than ten ~~(10)~~ feet in width, near the middle of the block. The width of blocks shall be such as to allow two tiers of lots~~, except where in the opinion of the Approving Authority a relatively short length of double frontage lots are unavoidable.~~**.**

~~W.~~**Z.** ~~Lots~~**Units of land**:

1. **Unit of** land size, width, shape and orientation shall be appropriate for the location of the subdivision and for the types of use permitted. ~~Lot~~ **Unit of land** dimensions shall not include part of existing or proposed streets. All ~~lots~~ **units of land** shall be buildable, except a public utility lot. Depth and width of utility lots shall be adequate to provide for standard setbacks for service structures, and to furnish off street parking facilities required by the kind of use contemplated. In no other case shall the width or area be less than that prescribed for the zone in which the ~~lot~~ **unit of land** is proposed.

2. Each side ~~lot~~ **unit of land** line shall be at right angles to the adjacent street line or radial to a curved street line**.** ~~, unless~~**The applicant may request and** ~~the~~ the Approving Authority **may approve** ~~determines that~~ **a** variation from these requirements **as necessary to accommodate** ~~is necessitated by~~ unusual circumstances such as topography and site location.

3. **A** ~~**U**~~**units of** land with double frontage **is not allowed** ~~shall be avoided,~~ except where **necessary** ~~the Approving Authority determines that such lots~~ **units of land** ~~are essential~~ to provide separation or residential development from major traffic

arterials or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten feet wide, across which there shall be no rights of access, may be required along the line of lots abutting such a traffic arterial or other incompatible use. Such area shall be considered the rear portion of the **unit of land**~~u~~.

4. Flag lots **are** ~~shall~~ not **allowed** ~~be permitted,~~ except when **necessary to accommodate** unusual ~~circumstances exist. Such circumstances may include characteristics of~~ topography **that** ~~and site which~~ affect**s** construction on ~~the property~~ or access to the property. Approval of ~~the creation of~~ **a** flag lot~~s~~ ~~by the Approving Authority~~ shall be based on specific findings indicating what **topographical** ~~unusual~~ circumstances exist. **In the case where a flag lot is permitted, it must meet the following standards:**

a. The flag lot must meet all setback standards in the applicable underlying and overlay zone(s).

b. ~~b.~~ **The flagpole section of the flag lot shall be at least 50 feet, but not more than 60 feet in width.**

c. ~~c.~~ **No more than one flag lot is permitted to the rear of another lot or parcel.**

~~a.~~**d.** ~~d.~~ **Access to the rear lot or parcel shall be by way of a driveway located entirely within the flagpole section of the lot or parcel. The driveway shall meet the access standards in Chapter 10 and Chapter 22. No re-division or property line adjustment shall be allowed that would alter the status of the flagpole for driveway use unless other access meeting all the requirements of this Ordinance is provided.**

~~b.~~**e.** ~~e.~~ **A flag lot may have only one flagpole section.**

~~c.~~**f.** ~~f.~~ **Adjoining flagpole sections of flag lots are not allowed.**

~~4.~~**5.** "Bowling Alley" shapes shall not be permitted except where unusual circumstances exist. "Bowling Alley" shape is defined as a unit of land where the length is substantially greater than the width. Unusual circumstances may include such site characteristics as topography and orientation which preclude a more acceptable design.

~~X.~~**AA.** Public Open Space:

~~———~~**Wasco County** ~~E~~**elementary and high school sites, neighborhood playgrounds, parks and recreation areas shall be located in accordance to the development pattern of the County or the County area in accordance with the County Comprehensive Plan and**

district Parks and Recreation Plans. When such public school or recreation sites are within the area of an approved subdivision they may be dedicated to the County or shall be reserved until such time as the County is able to acquire them. Parks and recreation areas shall be provided at the rate of one acre of recreation area to every one hundred people. All public parks shall carry with them maintenance and management agreements at the time of designation. No public open spaces shall be designated and/or dedicated without a maintenance agreement in place.

~~Elementary and high school sites, neighborhood playgrounds, parks and recreation areas shall be located in accordance to the development pattern of the County or the County area. When such public school or recreation sites are within the area of an approved subdivision they may be dedicated to the County or shall be reserved until such time as the County is able to acquire them. Parks and recreation areas shall be provided at the rate of one (1) acre of recreation area to every one hundred people.~~

~~Y.~~**BB.** Subdivision Name: The name of any subdivision shall not duplicate or be so similar as to be confused with the name of any existing subdivision or parcel or area within the County.

~~Z.~~**CC.** Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and, if near a city, to the pattern in the city, and shall be subject to the approval of the Approving Authority.

DD. Street Signs: All street and highway signs shall meet the County standards for such signs.

~~**AA. Design Features and Map**~~

Section 21.030 - Land Partitioning Approval

A. Approval of Preliminary Partition Plans:

1. An application for preliminary partition plan approval shall be initiated as provided in ~~Section 2.060.A.~~**Chapter 2** of this Ordinance.

2. A preliminary partition **plat,** application, plan**,** and supporting documentation shall include the following:

a. A vicinity map of such scale to clearly locate the proposed partitioning in relation to adjacent subdivisions, partitions, roadways and other ~~l~~**units of land**~~and parcels~~;

b. North point, scale and date;

c. A plan of the proposed partitioning, showing boundaries of the total contiguous ownership, boundaries of each proposed tract, the number assigned to each tract, acreage of each tract and location and name of existing and proposed roads;

d. Private streets and all restrictions or reservations relating to private streets;

e. Name and address of the landowners, the applicant and the surveyor~~, if any,~~ employed to make necessary surveys and prepare the description of each tract involved;

f. Proposed means and location of water supply and sewage disposal for each tract;

g. Zoning classification of the land and **the** Comprehensive Plan map designation;

h. Predominant natural features, such as water courses and their flows, marshes, rock outcroppings, and areas subject to flooding, sliding or other natural hazards;

i. Any existing permanent structures;

j. Draft of proposed restrictions and covenants affecting the partitioned land;

k. Legal description of the property being partitioned;

l. If not sewered and located in an "F 1", "F 2", or "A 1" zone, a statement signed by an authorized representative of the Department of Environmental Quality, State of Oregon, or ~~County Sanitarian~~ **North Central Public Health District** regarding the suitability of each parcel to be partitioned for subsurface sewage disposal; or a signed statement shown on the face of the final partition plan that no investigation has been made of the suitability of any given parcel by an authorized representative of the Department of Environmental Quality, and that no warranty is made that any parcel will be usable for subsurface sewage disposal;

m. If not sewered and located in an F-F or any other non-resource zone, a statement signed by an authorized representative of the Department of Environmental Quality ~~-~~approving each parcel to be partitioned for subsurface sewage disposal; or a statement signed by the ~~County Sanitarian~~**North Central Public Health**

District or an officer of a public sewer district or corporation warranting the availability of sewer hook ups for each parcel to be partitioned.

n. A current preliminary title report (within 90 days of application). If the title report changes between application and final plat approval, the applicant will be required to submit an updated preliminary title report at the time of final plat review.

~~**An affidavit of consent for all owners and lienholders if they are unable to sign the application.**~~

o.

~~m. **Water**~~

3. Standards for approval of a preliminary partition plan.

   a. A decision on a preliminary partition plan application shall be made by the Approving Authority as provided in Chapter 2 of this Ordinance.

   b. The preliminary partition plan shall be approved if the Approving Authority finds that the information required by this subsection has been provided and if the design and development standards of Section 21.020 of this chapter have been met.

   c. If the Planning Director determines that the proposed partition constitutes series partitioning, or if series partitioning has occurred in the past, then the Planning Director may ~~**review for a determination as to whether**~~ **require the application** ~~**should**~~ **be subject to the requirements for** ~~**of the District Watermaster, Roadmaster, and Sanitation Authorities. Of**~~ **a subdivision or Planned Unit Development.**

4. The Approving Authority may require dedication or reservation of land and utility or drainage easements~~;~~ and may impose conditions promoting redevelopment of the parcels if~~, in view of the zoning and comprehensive plan map designation,~~ the acreage of a parcel or parcels in contiguous ownership **and the zoning and comprehensive plan map designation(s)** make additional partitioning of the subject property feasible.

5. Duration of approval for preliminary partition plan: Approval of a preliminary partition plan shall be valid for ~~twenty four (~~24~~)~~ months from the date of tentative approval. During such time, all conditions of approval shall be met**.** ~~and required documentation shall be filed~~ **Prior to expiration of the preliminary partition plat, the applicant shall file the final plat** with the Director as an application for final

approval, and shall otherwise comply with the provisions of subsections (2) and (3) of this section.

a. **An extension of the 24 month preliminary approval period ~~time frame~~ to complete the conditions of approval required prior to the final plat being approved may be granted in accordance with Section 2.070 of this ordinance.**

B. Approval of Final Partition Plat:

1. If a ~~tentative~~ **preliminary** plan is approved, finalizing the approval requires the completion of a final plat. Within ~~twenty-four (~~24~~)~~ months from the date of preliminary partition ~~(tentative plan)~~ approval, the applicant shall initiate a request for final partition plat approval by filing with the **Planning** Director a final plat prepared in accordance to those standards specified in Section **21.030**~~100~~ of this Chapter and ORS 92 and 209.

2. **The form and content of the final partition plat shall comply with the County's final decision approving the preliminary plan~~t (tentative plan)~~ and applicable provisions of Section 21.~~100~~030(B) and ORS 92 and 209.**~~The approval of a final partition map by the Director is a ministerial action. The Director shall grant final approval if he determines that~~:

~~a.~~ **Any conditions of approval imposed upon the preliminary plan~~t (tentative plan)~~ by the Approving Authority shall be met;**~~the final plat and any supporting documents are in substantial conformance with the approved preliminary partition plan;~~

~~b. any conditions imposed by the Approving Authority have been met;~~

Substantial conformance means that any differences between the preliminary and final plans are ~~"~~minor amendments~~", as defined in Section 21.110 A 1 of this Ordinance.~~

3. All access easements created as part of land partitioning become effective when the plat is recorded by the County Clerk. If an access easement is preexisting or if the access easement has been recorded with the County Clerk prior to the final approval of the land partition, then the recorded Document Number shall appear on the face of the plat. **Consistent with ORS 455.175, a final plat must be recorded prior to the issuance of a building permit for a residential structure.**

4. The granting of final plat approval shall not be affected by a change in the zone or plan map designation of the subject property made after approval of the preliminary partition plat.

5. After approval of the final partition plat, the Director and the County Surveyor shall endorse their approval on the original plat. The original plat shall be recorded with the County Clerk and a copy with the County Surveyor's Office.

6. Pursuant to ORS 92.055(1) a parcel larger than ten ~~(10)~~ acres is not required to be surveyed and monumented but shall comply with the following:

    a. The approximate acreage of each unsurveyed parcel shall be shown.

    b. Any unsurveyed parcel shall have the word "unsurveyed" placed in bold letters adjacent to the parcel number on the plat at provided in (5) above.

    c. Unsurveyed parcels need not comply with ORS 92.050(5), (7) and (8).

7. Pursuant to ORS 92.095, prior to recordation of the final partition ~~map~~**plat**, the current years' taxes must be paid in full. (The tax year runs from July 1st through June 30th).

8. If the property is zoned "A-1" Exclusive Farm Use, a statement shall appear on the face of the partition plat stating that the land division is for commercial farm use.

C. Final Land Partition Plat Requirements:

1. Conformance to Preliminary plan. ~~The plat shall substantially conform to the preliminary plan as approved.~~**Upon receipt of the final plat and related documents as described in this Ordinance, the Planning Director ~~or their designee~~ shall review the final map and documents to determine that the plat conforms with the approved preliminary plat, including any ~~special~~ conditions of approval, and that there has been compliance with provisions of ORS 92, ORS 209.250, and of this Ordinance.**

2. Preparation of the Plat.

    a. A plat shall be prepared on 4 mill (minimum) double matte polyester film, approved by the County Surveyor, on a standard 18" x 24" sheet, with archival permanent black ink, in a format available at the Wasco County Surveyors Office.

    b. All signatures on the original must be in archival quality black ink.

    c. The lettering shall be a size or type to be clearly legible when copies are made.

d. A face sheet and index must be included for a plat with 3 or more sheets.

~~3.~~ Compliance with ORS 209.250. A plat shall comply with all requirements of ORS 209.250**.** ~~including:~~

~~4. Narrative. If the narrative is a separate document, the narrative must also contain the following:~~

~~5. Location of survey by one-fourth section, Township and Range.~~

~~6. The date of survey.~~

~~7. The surveyor's seal and original signature.~~

~~8. The surveyor's business name and address.~~

~~9. Location of survey by one-fourth section, Township and Range.~~

~~10. Date of the survey~~

~~11. Scale of drawing and North Arrow.~~

~~12. The distance and course of all lines traced or established, giving the basis of bearing and the measured distance and course to a monumented section corner, one-quarter corner, one-sixteenth corner or Donation Land Claim corner in Township and Range, or to a monumented lot or parcel corner or boundary corner of a recorded subdivision, partition or condominium.~~

~~13.~~ Measured bearings, angles and distances that are used as a basis for establishing or reestablishing lines or monuments separately indicated from those of record together with the recording reference. Metric measurements may be used if a conversion to feet is provided.

~~14.~~ Monuments set and their relation to older monuments found. A detailed description of monuments found and set must be included and monuments set must be separately indicated from those found.

~~15.~~ The surveyor's seal and original signature.

~~16.~~ The surveyor's business name and address.

~~17.~~**3.** Compliance with 92.050. A person shall not submit a plat of a partition for record until all the requirements of ORS 209.250 and the ~~plat requirements~~**conditions** of the partition have been met.

a. The survey for the plat shall be done in a manner to achieve sufficient accuracy that measurements may be taken between monuments within one-tenth of a foot or one ten-thousandth of the distance shown on the plat, whichever is greater.

b. The plat shall be made by **an Oregon-certified** ~~professional~~ land surveyor.

c. The plat shall be of sufficient scale and lettering size, approved by the County Surveyor, so that:

(1) The survey and mathematical information and all other details are clearly and legibly shown on the plat.

(2) Each lot or parcel is numbered consecutively.

(3) The lengths and courses of the boundaries of each lot or parcel are shown on the plat.

(4) Each street is named and shown on the plat.

d. The locations and descriptions of all monuments found or set must be carefully recorded upon the plat and the proper courses and distances of all boundary lines, conforming to the Surveyor's Certificate, must be show.

e. The location, dimensions and purpose of all recorded and proposed public and private easements must be shown on the plat along with the County Clerk's recording reference if the easement has been recorded with the County Clerk. Private easements become effective upon the recording of the plat.

f. The area of each lot or parcel must be shown on the plat, to the nearest one-hundredth of an acre.

g. In addition to showing bearings in degrees, minutes and seconds, and distances in feet and hundredths of a foot, the following curve information must be shown on the plat:

(1) Arc length
(2) Chord length
(3) Chord bearing
(4) Radius
(5) Central Angle

h. The final plat may not be required to show any information or requirement that is or may be subject to administrative change or variance by the county, or any other information unless authorized by the County Surveyor. Examples of authorized information include:

(1) Parcels located in an "A-1", "F-1" or "F-2" zone shall contain the following statement:"No investigation has been made of the suitability of any given



parcel by an authorized representative of the Department of Environmental Quality, and no warranty is made that any given parcel will be used for subsurface sewage disposal. If subsurface sewage disposal evaluations have been completed, a copy shall be filed with the Wasco County Planning Department**"**.

(2) Parcels located in any other zone shall contain the following statement: "The parcels have been approved for subsurface sewage disposal by an authorized representative of the Oregon Department of Environmental Quality."

(3) Planning Department File Number

(4) Tax lot Information

(5) Zoning classification and Comprehensive Plan Designation

(6) Table indicating the acreages of all existing and newly created parcels.

(7) Assessor Account Number for each existing property.

~~18.~~**4.** Monuments.

a. The Initial Point of a plat must be on the exterior boundary of the plat and must be marked with a monument meeting the specifications of ORS 92.060(1). The location of the monument shall be with reference by survey to a known corner, per ORS 92.060 and shown on the plat.

b. The exterior boundary and all parcel corners must be monumented per ORS 92.060.

c. For partitions involving land in a flood plain, the provisions of Section 21.110 D 5 shall apply.

~~19.~~**5.** Surveyor's Certificate. The plat must include a Surveyor's Certificate, together with the seal and signature of the surveyor of record, to the effect that the surveyor has correctly surveyed and marked with proper monument the lands represented, including the initial point of the plat and its location, and accurately describing by metes and bounds, or other description as approved by the County Surveyor, the tract of land upon which the parcels are laid out.

~~20.~~**6.** Declaration.

a. The plat shall include a declaration, taken before a notary public, stating that the declarant has caused the plat to be prepared in accordance with the provisions of ORS 92.

b. Any dedication of land to public purposes or any public or private easements create, or any other restrictions made, shall be included in the Declaration.

c. If the declarant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the Declaration for the purpose of consenting to the property being partitioned.

d. If the plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the Declaration

e. Notwithstanding the provisions of subsection a. to d., the fee owner, vendor or the mortgage trust deed holder may record an affidavit consenting to the declaration, pursuant to ORS 92.075(4).

~~21.~~**7.** General Information. No plat shall be approved unless:

a. Streets or Road for public use are dedicated without reservation or restriction other than reversionary rights upon vacation.

b. All easements provided for public services, utilities, or access are shown on the face of the plat **or map** along with the legal description and any limitations of the easements. If it is a pre-existing easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorders number shall appear on the face of the plat **or map**.

c. Names and addresses of the partitioner, owner, mortgagee, if any, and the person preparing the plat are shown.

d. The names of any streets intersecting or within the parcels are shown.

e. Any **existing** ~~buildings and structures~~permanent structures **are shown.**

~~f. All easements provided for public services, utilities, or access must be shown on the face of the map along with the legal description and any limitations of the easements. If it is a preexisting easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorder's number shall appear on the face of the map.~~

~~g.~~**f.** Zoning classification and Comprehensive Plan Designation

~~h.~~**g.** Space for date and signatures of the following officials is made:

(1) Planning Director or designee
(2) County Surveyor
(3) County Assessor
(4) County Tax Collector

~~i.~~**h.** Any additional information made a condition of approval of the **preliminary**~~tentative~~ plan is shown.

~~22.~~**8.** County Surveyor Fees: The partitioner shall pay a fee to the County Surveyor as provided in ORS 92.100(2) ~~which is included in the cost at the time of the plat application.~~

Section 21.040 – Amendments to a Recorded Plat

Any plat of a subdivision or partition filed and recorded under the provisions of ORS 92.018-92.190 should follow procedure outlined in ORS 92.170.

~~**Section 21.110 - Amendments to Preliminary Plans and Final Plats or MapsApproved Tentative Plans/Plats/Maps**~~

~~A. Definitions:~~**~~Minor amendments to a tentative approval for a land division may be made by submitting an application pursuant to Type I procedures according to Chapter 2.~~**

~~1. "Minor Amendment" means a change which:~~

~~**Does not require the revision of any findings addressing the original established approval criteria, development standards, or conditions of approval[1];**~~

~~a. Does not change the number of parcels created by the subdivision or partition;~~

~~b. Does not enlarge the boundaries of subdivided or partitioned area;~~

~~c. Does not change the general location or amount of land devoted to a specific land use; or~~

~~[1] Lane County~~

~~d. Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.~~

~~**All other revisions to tentatively approved plans must be processed as a new application for a request for modification of approval, pursuant to Type II procedures in Section 2.060 and will be subject to the applicable standards in effect at the time the new application is submitted.**~~

~~2. "Major Amendment" means any change which is not a minor amendment.~~

~~B. Approval of Minor Amendments: A minor amendment to an approved preliminary subdivision or partition plan or to an approved final subdivision plat or final partition map may be approved by the Director.~~

~~C. Approval of Major Amendments: Approval of a major amendment to an approved preliminary subdivision or partition preliminary plan or to an approved final subdivision plat or final partition plat shall be subject to the provisions of Section 2.060 of this Ordinance.~~

Section 21.050 - Property Line Adjustment~~s/Replats~~ Application Requirements

A. ~~The decision on a request for~~ **A**~~a~~ Property Line Adjustment **may be initiated as a Ministerial Type 1 application, unless it involves properties becoming more nonconforming or is within an Overlay Zone. Then it shall be reviewed as provided in Section 2.09~~6~~0 B~~A~~.** ~~Aor~~ #

B. Preliminary property line adjustment~~/replat~~ map shall meet the same standards required for preliminary partition approval, described in Section ~~21.100 A~~**2.030**. #

~~C. The applicant(s) shall submit a signed statement explaining the purpose of the proposed property line adjustment.~~

~~D.~~**C.** The applicant(s) shall submit a copy of the property deed. No property line adjustment may be approved unless all properties involved were lawfully created.

Section 21.060 - Property Line Adjustment~~/Replat~~ Approval Standards

~~The request~~ **An application** for a property line adjustment ~~or replat~~ shall be approved by the Director if the following criteria are met;

A. The existing units of land~~ lots or parcels~~ were lawfully created in accordance with ORS 92 and Section 21.030.

~~A.~~**B.** The proposed property line adjustment~~/replat~~ will not result in the creation of ~~any new tax lot~~ **a new** ~~parcel~~**unit of land**~~.~~ **Property line adjustments that create new** ~~parcels~~**units of land** ~~are exempt from this section and~~ **are subject to Section 21.**030**.**

C. The proposal will not render any property unusable, nor shall the usefulness, utility or viability of the property be reduced from the designated purpose statement of the zoning district in which the property is located.

~~B.~~ **The adjustment shall not result in the loss of access to any unit of** land **unless alternative access complying with Chapter 22is provided.**

D. Road access is consistent with requirements in Chapter 22.~~in resource and non-resource zones. See figures 21-3 to 21-7.~~

~~Property which presently conforms to the lot size requirements of the zoning district in which it is located shall not become nonconforming as a result of the property line adjustment./replat~~

E.

~~C.~~**F.** Property line adjustments~~/replats~~ shall result in greater conformity where it can be achieved. Property line adjustments~~/replats~~ to nonconforming property shall not result in greater nonconformity~~, provided however, the Director may approve a reduction in area which will result in greater nonconformity if the Director finds the proposal will benefit the public interest.~~**.**

~~D.~~**G.** Adjusted property lines may cross zoning district boundaries unless the adjustment will increase the number of parcels or lots which could potentially be created, based on the density requirements of the applicable zoning district **unless a restrictive covenant is recorded in the County deed records prohibiting the acreage that was added to the parcel through the adjustment from being considered in the division**~~, or if the Director finds the proposal will benefit the public interest..~~**.**

~~E.~~**H.** The proposal will not cause any existing development to be placed in violation of the property development standards of the **underlying zone(s)** ~~zone~~, or force a violation of this ordinance.

A ~~P~~**p**roposed property line adjustments~~/replats~~ ~~which have~~ **that has** the net result of physically relocating a **unit of land** ~~parcel~~ to a new location beyond an existing common boundary line or ~~which~~ **that** requires the creation of a private or public road ~~will not be acted on, and~~ must be reviewed under Section 21.**030** of the Wasco County Land Use and Development Ordinance.

~~F.~~**I.** ~~_____~~

Section 21.070 - Final Property Line Adjustment~~/Replat~~ Map Requirements

A~~ll~~ final property line adjustment~~/replat~~ map~~(s)~~ shall meet the same standards required for final partition approval~~. described in Section 21.100 C, Final Land Partition Map Requirements.~~

Section 21.080 - Survey Requirements for Property Line Adjustments~~/Replats~~

An adjusted property line created by the relocation of a common boundary as described in ORS 92.010 ~~(7)(b)~~ shall be surveyed and monumented in accordance with ORS 92.060 (3). ~~Said~~ **The** survey shall comply with ORS 209.250, and shall be filed with the Wasco County ~~Clerk.~~**Surveyor**

~~A. If all property affected by the property line adjustment is greater or becomes greater than ten acres the requirement of a survey and monumentation will be waived.~~

~~B.~~**A.**

If all units of land ~~property~~ affected by a~~the~~ property line adjustment are~~is greater~~ or will become~~s~~ greater than ten acres, the requirement of a survey and monumentation is ~~will be~~ waived, consistent with ORS 92.060 (8). However, a map prepared by a licensed surveyor must be submitted.

~~Replats shall be reviewed in the same manner as property line adjustment requests, with the exception that the requirements of ORS 92.180 – 92.190 shall apply.~~

Section 21.090- Replats

The same procedure and standards that apply to the creation of a plat apply to the replat. Replats only apply to recorded plats. Replats will not act to vacate any recorded covenants or restrictions. A replat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys or fails to meet any applicable County standards. A replat may also not result in nonconformance with any conditions of approval including minimum parcel size, property development standards, subdivision requirements or open space requirements.

Upon completion of a replat and within the replatted area, the previously platted units of land will be vacated.

A.Partition Replat shall be initiated as provided in~~ Section 2.060 A~~ **Chapter 2**of this Ordinance.

B.A Subdivision Replat shall be initiated as provided in **Chapter 2** of this Ordinance.

1. Preliminary subdivision replat maps shall meet the same standards required for preliminary subdivision approval, described in Section 21.**1** ~~2~~00.

2. **Approval standards in Sections 21.030 and/or 21.100 are applicable to replats.**

3. **Replats shall be consistent with the requirements in ORS 92.185.**

4. **All final replat map(s) shall meet the same standards required for subdivision approval.**

Section 21.100 - Preliminary Subdivision Plan Approval

~~The approval of~~ **An application for** a preliminary subdivision plan is reviewed by the Planning Commission subject to the provisions of **Chapter 2**~~Section 2.060 (c)~~ of this Ordinance.

A. Application for Preliminary Subdivision Plan Approval:

1. An application for preliminary subdivision plan approval shall be initiated as provided in Chapter 2 of this Ordinance.

2. The applicant shall file with the **Planning** Director a preliminary subdivision plan, together with improvement plans and other supplementary information required by subsection B of this Section ~~to~~**that** demonstrate the design and objectives of the subdivision.

3. The preliminary plan shall be clearly and legibly drawn. It shall show all required information to scale so that the Approving Authority ~~may~~**will** have an adequate understanding of what is proposed. Under ordinary circumstances, the scale of the drawing is to be one ~~(1)~~ inch equals ~~one hundred (~~100~~)~~ feet, or one ~~(1)~~ inch equals ~~fifty (~~50~~)~~ feet.

B. Information Required in the Preliminary Subdivision Plan:

1. The proposed name of the subdivision or major partition.

2. North point, scale, date of application, and basis of bearing.

3. Names and addresses of the subdivider, engineer, surveyor, land planner or landscape architect.

4. The **lot, parcel or** tract description according to the real estate records of Wasco County.

5. The boundary lines (accurate in scale) of the **lot, parcel or** tract to be subdivided.

6. Contour lines may be required at intervals to be determined by the Director.

7. The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land.

8. The location, width and names of all existing or plotted streets or other public ways within or adjacent to the ~~tract~~**proposed subdivision**, existing permanent buildings, railroad rights of way and other important features such as section lines, political subdivisions or corporation lines and school district boundaries.

9. Existing sewers, water mains, culverts or underground utilities and improvements within the ~~tract~~ **proposed subdivision** or immediately adjacent thereto together with pipe sizes, grades and locations indicated.

10. All units of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any.

11. The location, names, width and approximate grades of all streets proposed or existing in the **proposed** subdivision, and the approximate widths and locations of proposed easements for drainage, sewerage and public utilities.

12. Typical cross sections of proposed streets, showing all improvements proposed within the street right of way at such scale to clearly show the details thereof.

13. ~~Approximate~~ **L**location of all **seasonal and perennial drainage channels**~~areas~~ subject to inundation or storm water overflow and the location, width**,** and direction of flow of all watercourses.

14. Proposed lots, approximate lot dimensions, and lot numbers. Where lots are to be used for purposes other than residential, it shall be indicated upon such lots.

15. Parks, playgrounds, recreation areas, parkways, and other open space for public use.

16. Locations of proposed tree plantings or other plantings. ~~Appropriate information clearly stating the map is a tentative plan.~~

17. Proposed source of water supply, ~~if any;~~ estimated volume to be available, together with data regarding the location, type, and size of all storage facilities, distribution lines, fire hydrants, and gate valves.

18. If domestic water supply proposed by the developer includes the drilling of wells, information on the feasibility of well drilling**, or acquiring water rights if needed, from the Oregon Water Resources Department shall be provided**. Such information

will be provided even if the developer is not required by the Commission to drill the wells.

19. The proposed method of sewage disposal.

    a. If to be served by a community sewer system, data regarding the location, type, size, approximate grade, and capacity of all collection lines, feeder lines, trunk lines, pumping stations, storage facilities, backflow prevention devices, and gate valves. If treatment is to be accomplished by an existing municipal or public sewage facility, a statement regarding the ability of the facility to accommodate the projected increased load. If treatment is to be accomplished by a new installation or privately owned treatment facility, a statement regarding conformity to applicable regulations of the Oregon State Department of Environmental Quality.

    b. If to be served by a community collection and storage system, data regarding the location, type, size, approximate grade, and capacity of all lines, holding tanks, storage facilities, pumping facilities, and valves.

    c. If to be served by subsurface sewage disposal, a statement from an authorized representative of the Department of Environmental Quality, State of Oregon, or ~~the~~ **North Central Public Health Department** ~~County Sanitarian~~ regarding the approval of each lot or parcel to be sold for installation of septic tank facilities.

20. Information on the source of other public utilities,~~;~~ proposed deed restrictions, if any,~~;~~ and the irrigation district involved and provisions for delivering irrigation water to the lots in the subdivision.

21. The location of any environmental hazard,~~;~~ area**s** unsuitable for building purposes,~~;~~ or land subject to mass movement, excessive erosion, or similar natural phenomena.

22. Proposed building setback lines.

23. Vicinity sketch showing how the proposed streets and alleys may connect with existing streets in neighboring subdivisions or undeveloped property.

C. Criteria for Approval of Preliminary Subdivision Plan:

1. A decision on the preliminary subdivision plan application shall be made by the Approving Authority as provided in Chapter 2 of this Ordinance.

2. The preliminary subdivision plan shall be approved if the Approving Authority finds the following:

a. The information required by this Chapter has been provided;

b. The design and development standards of Section 21.020 of this Chapter have been met; and

c. If the preliminary plan provides for development in more than one phase, the Approving Authority makes findings and conclusions that such phasing is ~~necessary due to the nature of the development, and that the applicant will be able to comply with the proposed time limitations.~~**consistent with D.2. below.**

D. Development Phasing:

1. A preliminary subdivision plan may provide for platting in phases. When approval has been granted to develop a subdivision in phases, the final plat for the first phase shall be submitted in accordance with the time limitations outlined in Section 21.030~~100~~.B.1. The final plat for each subsequent phase shall be submitted within ~~twenty four (~~24~~)~~ months of the date the final plat for the previous phase was recorded. An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the ~~twenty four (~~24~~)~~ month period. The total time period for submittal of the final plats for all phases of the subdivision shall not exceed ten years from the date of final approval of the ~~tentative~~preliminary plan.

2. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided ~~applicant's~~ proposal meets all of the following criteria:

a. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than ~~twenty four (~~24~~)~~ months from the date of preliminary plan approval;

b. Public facilities shall be constructed in conjunction with or prior to each phase;

c. The phased development shall not ~~result in~~ require~~ing~~ the County or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;

3. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and

Planning Commission approval is required for modifications to phasing plans.

~~Development Phasing:~~

~~A preliminary subdivision plan may provide for platting in as many as three (3) phases. The preliminary plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase.~~

~~Time limitations for the various phases must meet the following requirements:~~

~~Phase 1 final plat shall be approved within twelve (12) months of preliminary approval.~~

~~a. Phase 2 final plat shall be approved within twenty four (24) months of preliminary approval.~~

~~Phase 3 final plat shall be approved within thirty six (36) months of preliminary approval.~~

~~1.~~**4.**

#

~~D.~~**E.** Duration of Preliminary Subdivision Plan Approval:

1. Approval of a preliminary subdivision plan shall be valid for ~~twenty four (~~24~~)~~ months from the date of approval of the preliminary plan, provided that if the approved preliminary plan provides for phased development, the approval shall be valid for the time specified for each phase.~~, subject to the limitations of Section 21.200 C 2 of this Ordinance.~~

2. If any time limitation is exceeded, approval of the preliminary subdivision plan, and any subsequent phases, shall be void. Any subsequent proposal by the applicant for division of the property shall require a new development request.

~~E.~~**F.** Granting of Extensions: Extensions of time may be allowed as outlined in Section 2.1~~25~~ **00.**~~B.~~

Section 21.110 - Final Subdivision Plat Approval Requirements

Approval of a final subdivision plat is reviewed by the Planning Commission and subject to the provision of **Chapter 2**~~Section 2.060(2)~~ of this Ordinance. **The final plat shall be prepared in conformance with all provisions of this Section 21.**~~2~~**110.**

A. Application for Final Subdivision Approval:

1. ~~Before expiration of the validity of the preliminary subdivision plan approval obtained pursuant to Section 21.200 of this Ordinance, t~~**T**he applicant shall cause an Oregon licensed land surveyor to survey the subdivision and to prepare a final plat, in conformance with the approved preliminary plan.

2. The applicant shall initiate a request for final plat approval by filing with the Director a final plat, an exact reproducible copy, other supporting documents as described in subsections ~~B to F~~ of this Section, and the appropriate fees as established by the County Governing Body.

~~B.~~ Final Subdivision Plat Requirements:

~~C.~~**B.**

~~3. The final plat shall be prepared in conformance with all provisions of Section .~~

~~Prior to submission for final approval, t~~**T**he final subdivision plat shall be signed by all persons who own land in the subdivision and the mortgagees, or by their authorized representatives or any title holder. The plat shall bear the signature and seal of the licensed land surveyor responsible for its preparation and certification that the plat has been correctly surveyed and properly monumented. All signatures must be with black ink.

~~D.~~**C.** Information Required in the Final Subdivision Plat: **In addition to the requirements for the Preliminary Plat (Section 21.100),** ~~following information shall be included on the final plat or in the supporting documents, and~~ the plat shall ~~otherwise~~ comply with ORS 209.250. ~~and t~~**The following information shall be included on the final plat or in the supporting documents:**~~:~~

1. Name of Subdivision**, approved by the County Surveyor pursuant to ORS 92.090**.

2. ~~North point, scale and d~~**D**ate the plat was prepared.

3. Legal description of the subdivision boundaries, area of the subdivision in acres, and the location of the subdivision by one fourth section and Donation Land Claim, Township and Range.

4. Names and addresses of the subdivider, owner, mortgagee, if any, and the person preparing the plat.

5. Subdivision block and lot boundary lines and street right of way and center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arcs, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest ~~thirty (~~30~~)~~ seconds with basis of bearings.

6. Names and width of the portion of streets being dedicated, the width of any existing right of way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

7. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, a certified copy of the easement shall be provided. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's declaration.

8. Locations and widths of drainage channels **and** ~~,~~ railroad rights of way**.** ~~, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.~~

9. Numbering of blocks and lots, as follows:

    a. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure or lot numbers. In an addition to a subdivision of the same name, numbers shall be a continuation of the numbering in the original subdivision.

    b. Lot numbers beginning with the number "1" and numbered consecutively in each block.

10. Ties to any city, county, or adjacent subdivision boundary lines.

11. Zoning classification of the property within the subdivision.

12. The course of all lines traced or established, giving the basis of bearing and the distance and course to a section corner, one sixteenth corner or Donation Land Claim corner in Township and Range.

13. Space for date and signature of the County officials specified in subsection K of this Section.

14. Any conditions specified by the Approving Authority upon granting preliminary approval **or a reference to the preliminary plan decision**.

15. A copy of the covenants, if any, that will be placed on the subdivision, including the volume and page(s) of recording with Wasco County.

16. A copy of all documents relating to establishment and maintenance of private facilities, common areas and easements, including the volume and page(s) of recording with Wasco County.

17. A copy of all documents relating to additional requirements or restrictions required by the County as a condition of approval.

18. A declaration and acknowledged by all parties having any record title interest in the land consenting to the preparation and recording of the plat.

19. A declaration signed and acknowledged by all parties having any record title interest in the land dedicating all land intended for public use and common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems the donation of which was made a condition of the approval of the tentative plan.

~~20. A narrative per ORS (2).~~

~~21.~~**20.** All subdivisions outside the boundaries of an irrigation district, drainage district, water control district, or district improvement company must file a statement of water rights. If a water right is appurtenant to the lands of the subdivision, the statement of water right and a copy of the subdivision plan must be submitted to the Oregon Water Resources Department. A copy of the acknowledgment from the Water Resources Department must be submitted with the final subdivision plat.

~~E.~~**D.** Survey Requirements for Final Plat:

1. Format. The plats shall be drawn with an archival quality black permanent ink, approved by the County Surveyor, on 4 mil (minimum) thick polyester based transparent drafting film, or an equivalent, matted on both sides, eighteen inches by twenty four inches (18"x24") in size. The quality of said drafting film and any other drafting particulars will be subject to the County Surveyor's approval. ~~No diazo process may be used.~~

2. Scale. The plat shall be drawn to a standard engineering scale sufficient to depict the subdivision of land approved by the County Surveyor.

3. Survey Accuracy. The survey for the plat shall be done in such a manner to achieve sufficient accuracy that measurements may be taken between monuments within one-tenth of a foot or one ten-thousandth of the distance shown on the plat, whichever is greater.

4. Measurements. The subdivision plat shall contain the following measurements:

a. The boundary lines with distance and bearing of the exact location and width of existing or recorded streets intersecting the boundary.

b. The arc, length, chord length, chord bearing, radii, central angles, of curves.

c. Block indications, lot numbers and lot lines with dimensions in feet and hundredths and bearings and angles to street and alley lines.

d. The area of each lot in either acres, to the nearest 1/100th of an acre, or square feet.

e. All measured bearings or angles and distances separately indicated from those of record.

f. All monuments set and their relation to older monuments found. A detailed description of monuments found and set shall be included and all monuments set shall be separately indicated from those found.

Any additional information shall be typed or printed in narrative form.

5. Monuments. The subdivision plat shall contain the location, material, and size of all monuments which have been set. A monument shall be set at each of the following locations. **Monuments should be consistent with ORS 92.060 and the following:**

~~a. The Initial Point, which must be on the exterior boundary of the plat and must be marked with a monument meeting the specifications of ORS 92.060(1). The location of the monument shall be with reference by survey to a known corner per ORS 92.060.~~

~~b. The exterior boundary including every angle point or curve point along the boundary lines. Any exceptions shall be allowed only with approval of the County Surveyor. All monuments for the exterior boundaries of a subdivision shall be set and referenced on the plat before the plat is offered for approval.~~

~~c. All lot corners, except lot corners of a cemetery. All monuments for the interior boundaries of a subdivision shall be set and referenced on the plat before the plat is offered for approval, unless the surveyor certifies the remaining monuments will be set. If the interior monuments are not set prior to the approval of the plat:~~

~~(1) The person performing the survey work shall, by affidavit, certify that the interior monuments will be set by a date specified by him, such a date not~~

~~exceeding one year from the date of submission of the plat for approval. The County Surveyor may extend the one year period and such extension shall be in writing. The County Surveyor shall submit a written copy of the extension to the Director.~~

~~(2) The subdivider shall furnish to the Wasco County Surveyor's Office a bond or cash deposit, at the option of the Wasco County Surveyor's Office in the amount equal to not more than 120 percent of the County Surveyor's estimate of the cost to perform the work for the interior monumentation.~~

(a) Space will be provided on the face of the plat for endorsement of the recording reference to the plat copy to be filed upon completion of such interior monumentation.

(b) Upon completion of the interior monumentation, the person performing the survey shall indicate upon a copy of the plat that monumentation has been completed.

(c) The County Surveyor shall check the interior monumentation, and, if the conditions required on the ~~tentative~~ **preliminary** plan have been complied with, he shall so certify on the plat copy and file it with the County Clerk.

(d) The County Clerk shall file the plat copy and reference the filing number on the original plat. The County Clerk shall advise the County Surveyor of such number for notation on the plat previously filed with him.

(e) Flood Plain Monumentation for Subdivisions and Partitions.

For subdivisions and partitions involving land in a flood plain, the following specifications shall apply:

(1) A standard Bench Mark shall be a minimum of thirty six inches (36") in depth and eight inches (8") in diameter, constructed of concrete with a brass cap set in the center. The brass cap shall bear the name of the Bench Mark, the year set and the agency or Registered Land Surveyor's license number. The Bench Mark shall be set at least thirty inches (30") in the ground in a stable, protected area of the partition or subdivision. The elevation established shall be 3rd order or higher.

(2) The Bench Mark location shall be indicated on the face of the Plat or Final Survey Map along with its name and elevation and the name, year, and elevation of the Bench Mark upon which the elevation is based.

(3) The level notes or a copy thereof shall be filed with the final map. Any exceptions shall be allowed only with the approval of the County Surveyor.

(4) Field notes and closure copies to County Surveyor:

(a) Copies of all lot closures, block closures and plat closures of the subdivision shall be furnished to the County Surveyor upon his request.

(b) If the interior monuments are not set prior to the approval of the plat, the field notes or legible copies for the original survey of the subdivision shall be furnished to the County Surveyor upon his request.

6. Surveyor's Certificate. The plat must include a Surveyor's Certificate, together with the seal and signature of the surveyor of record, to the effect that the surveyor has correctly surveyed and marked with proper monument the lands **as** represented, **and has placed a proper monument as provided in ORS 92.~~060~~** ~~including the initial point of the plat and its location, and accurately describing by metes or bounds, or other description as approved by the County Surveyor, the tract of land upon which the parcels are laid out.~~

7. Declaration

a. The plat shall include a declaration, taken before a notary public, stating that the declarant has caused the plat to be prepared in accordance with the provisions of ORS 92. **Any dedication of land to public purposes or any public or private easements created, or any other restriction made, shall be stated in the declaration.**

~~b. Any dedication of land to public purposes or any public or private easements created, or any other restrictions made, shall be included in the Declaration.~~

~~c.~~**b.** If the declarant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the Declaration for the purpose of consenting to the property being partitioned.

~~d.~~**c.** If the plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the **d**~~D~~eclaration **for the purpose of consenting to the property being submitted to the provisions of ORS Chapter 92**~~.~~

~~e.~~**d.** Notwithstanding the provisions of subsections a. to d., the fee owner, vendor or the mortgage or trust deed holder ~~-~~may record an affidavit consenting to the declaration, pursuant to ORS 92.075 (4). **The affidavit must indicate the**

recorded document by which the interest in the property was acquired and all information required by ORS 93.410 it 93.530 and must be recorded in deed records at the same time as the subdivision or partition plat.

8. Supplemental Information with Final Plat: The following data shall accompany the final plat, if requested by the Director or County Surveyor:

   a. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

   b. Sheets and drawings showing the following:

      (1) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.

      (2) The computation of all distances, angles, and courses shown on the final map.

      (3) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.

   c. A copy of any dedication requiring separate documents.

   d. A Plan and Profile on Federal Aid sheets showing the following:

      (1) Widths of the proposed dedication throughout the length of the proposal.

      (2) Centerline alignment showing P.C. and P.T. stationing on all curves, necessary curve data and bearings of tangents.

      (3) Ground line and grade line profile on the centerline of the proposed street or road.

      (4) Vertical curve data showing P.I. elevations and stations, length of vertical curve and tangent grades.

      (5) Proposed drainage structures, showing both size and type of structure.

      (6) Earthwork distribution, i.e., volume of cuts and fills shown in appropriate haul distribution brackets.

(7) Provisions for waste or borrow areas if widened cuts or fills do not provide the desired balance of material.

(8) Toe of slope and top of cut lines showing the limits of the construction area within the dedication.

(9) Typical section of roadbed to be constructed.

(10) Sections lines, fractional section lines and/or Donation Land Claim lines tied to corner from which dedication description is prepared.

(11) Vicinity map in the upper left hand corner of the first plan sheet showing roughly the relationships of the proposed road to cities, state highways, county roads, or other well defined topographical features.

(12) The stamp and signature of the registered Professional Engineer or qualified land surveyor preparing the plans.

e. Cross Sections

(1) Shall be platted on rolls of ten inch (10"), on standard cross section paper. Computer cross section print outs may be submitted in lieu of platted cross sections.

(2) Shall show proposed widened cuts or fill if these are needed for material balance.

f. If sewer and/or water facilities are required as the condition of approval of the Final Plat, the following may be required to be submitted with the Final Plat:

(1) Plans and profiles of proposed sanitary, and storm water sewers, with grades, pipe sizes and the location of manholes indicated.

(2) Plans and profiles of the proposed water distribution system showing pipe sizes and the location of valves and fire hydrants.

(3) Specification for the construction of all proposed sewer and water lines and other utilities.

(4) Grading plans and specifications as required for areas other than streets and ways.

(5) Planting plans and specifications for street trees and other plantings in public areas.

9. **Payment of taxes and disqualification of special assessment. A plat may not be recorded unless all ad valorem taxes have been paid, including additional taxes, interest, and penalties imposed on land disqualified for any special assessment and all special assessments, fees, or other charges required by law to be placed upon the tax roll that have become a lien upon the land or that will become a lien during the tax year. The tax year runs from July 1st-June 30th.** ~~/~~ **If a subdivision or partition plat is recorded, any additional taxes, interest, or penalties imposed upon land disqualified for any special assessment become a lien upon the land on the day before the plat was recorded.**

10. County Surveyor Fees: The subdivider shall pay a subdivision review fee to the County Surveyor as provided in ORS 92.100(2)**.** ~~which is included in the cost at the time of application.~~ In the event a second field and/or office check becomes necessary because of substantial discrepancies found in the first check, the County Surveyor may, at **the Surveyor's** ~~his~~ discretion, charge a second fee or partial fee.

~~F.~~**E.** Agreement for Improvements

1. Before approval of the final subdivision plat, the applicant shall either install the improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the subdivision, or shall execute and file with the ~~County Governing Body~~**Board of County Commissioners** an agreement between ~~himself~~ **the applicant** and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.

2. An applicant may request an extension of time **to complete** ~~for completion of~~ **the** required improvements. Such request will be considered an application for administrative action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him to fulfill the agreement within the original time limit(s).

~~G.~~**F.** Performance Bond

1. To assure full performance of the improvement agreement, an applicant shall provide one of the following:

a. A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the District Attorney; or

b. cash deposit with the County Treasurer; or

c. certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the County Public Works Director. The bank certification or letter of assurance shall be approved by the District Attorney; or

d. cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the County Public Works Director. Escrow instructions shall be approved by the District Attorney.

2. Such assurance shall be for a sum determined by a qualified licensed engineer or in the case of survey monuments, a licensed land surveyor as sufficient to cover the costs**, up to 125%,** of ~~included~~ **completing the** improvements and repairs or monuments**,** ~~and~~ including related County expenses; and

3. Such assurance provides that: If the applicant fails to carry out provisions of the agreement or the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement; if the amount of the bond or cash deposit exceeds the cost and expense incurred by the County, the County shall release the remainder; and if the amount of the bond or cash deposit is less than the cost and expense incurred by the County, the applicant shall be liable to the County for the difference.

~~H.~~**G.** Parks, Playgrounds, or Recreational Areas: The Approving Authority may require parks, playgrounds, or recreational areas be provided in the final subdivision plan and dedicated to ~~the County~~**open space** in locations and of size **appropriate** ~~indicated by the Comprehensive Plan~~ for the area in which the subdivision is located. **These parks will be required to record a maintenance agreement including funding and an appointed administrator, like HOA, for ongoing upkeep.**

~~I.~~**H.** Recreational Fund: Where no parks, playgrounds or recreational areas are required by the Commission, the subdivider shall pay to the County a ~~sum~~**fee in lieu of dedication** equal to six and two thirds percent (6 2/3%) of the assessed value of the land area, exclusive of streets, within the subdivision. Such sum shall be paid to the County Clerk prior to recording of the final subdivision plan and such sum shall be held ~~by him~~ in a special fund for acquisition and ~~development~~ **development or maintenance** of parks, playgrounds, and recreational areas within the ~~immediate~~ area of the subdivision.

~~J.~~**I.** Development Phasing: If the preliminary subdivision plan approval, pursuant to Section 21.100 of this ordinance, provided for phasing of development, the applicant may request final plat approval for an individual phase of the subdivision by filing with the Director a final plat and supporting documents, as provided in subsections (A) through (F) of this section, for that phase only.

~~K.~~**J.** Standards for Final Subdivision Plat Approval

1. The Planning Commission shall grant final subdivision plat approval if **it** ~~they~~ determine**s** that the final plat and supporting documents are in substantial conformance with the approved preliminary plan, including any conditions imposed by the Approving Authority. Substantial conformance means that any differences between the preliminary and final plans are "minor amendments"~~, as defined in Section 21.110 A 1 of this Ordinance.~~**.**

2. The granting of final plat approval shall not be affected by a change in the zone or plan map designation of the subject property made after approval of the preliminary subdivision plan.

3. Approval of a final plat by the Approving Authority shall constitute an acceptance by the public of the dedication of any street shown on the plat. Acceptance of a street by approval of the final plat shall not constitute an acceptance to maintain the street. Acceptance for maintenance of any street by virtue of approval of the final plat shall be by a separate process of petitioning the **Board of County Commissioners** ~~County Governing Body~~ for acceptance of road maintenance. Approval of the final plat shall not act as an acceptance by the public of any other land for public purposes.

~~3.~~**4. The County will not issue building permits for a habitable structure until the final plat is recorded.**

~~L.~~**K.** Filing and Recording of Final Plat

1. After final plat approval, the applicant shall submit without delay the final plat for signatures of the following County officials:

   a. Planning Commission Chair~~man~~;
   b. County Surveyor;
   c. County Assessor;
   d. An authorized representative of the Department of Environmental Quality, State of Oregon, or the ~~County Sanitarian~~**North Central Public Health District Environmental Specialist**;

e. County Tax Collector;
f. County Commissioners;
g. County Clerk.

2. The final plat shall be recorded within thirty (30) days of the date that the signatures and approvals required by subsections J and K of this section were obtained.

CHAPTER 22 - ROAD STANDARDS

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Section ~~21~~22.010 - Purpose

The purpose of this chapter is to provide and encourage a safe, efficient and economical transportation system. This chapter applies to the unincorporated Wasco County transportation system, and implements the policies of the Wasco County Transportation System and Wasco County Comprehensive Plan. The criteria and regulations are intended to be consistent with Oregon Revised Statutes 368.

Section ~~21~~22.020- Improvements

The improvement standards contained in Sections 22.020, 22.030, 22.040 and 22.050 shall apply to all subdivisions, land divisions, public road dedications and private road approvals in Wasco County. **Improvements shall also meet the requirements in Chapter 10; in the case of a different standard, the more restrictive standard shall be required.**

A. Improvement Requirements: The following improvements shall be installed at the expense of the subdivider, partitioner, or person(s) creating the road:

1. Roadways in all cases shall conform with the improvement standards set forth herein.

~~2. Sidewalks shall be constructed in dedicated pedestrian ways along streets where determined necessary by the Approving Authority for pedestrian safety.~~

~~3.~~**2.** The applicant shall undertake on site grading and construction or installation of drainage facilities necessary for the purpose of proper drainage of the subdivision, partition, or properties adjacent to the dedicated road.

~~4.~~**3.** The applicant shall make improvements to existing County or public roads determined necessary by the Approving Authority at connections and intersections with subdivision streets and at locations where additional subdivision lots or partition parcels are created which front on County maintained roads.

~~5.~~**4.** Road **signs** shall be required as an improvement in a subdivision or partition. **The developer is responsible for the installation of** ~~Wasco County shall install and maintain~~ such road or street signs~~, provided the person(s) creating the road pays the expense of the initial improvement.~~**according to Wasco County Public Works standards.**

~~6.~~**5.** When necessary, and consistent with Wasco County's standards, sidewalks shall be required as part of a new road when a proposed development or land division is within an urban growth boundary, or when:

a. The subject property is located within one-quarter mile of a school, shopping center, recreation area, or other use likely to create pedestrian traffic; or

b. The surrounding area is developed with sidewalks or is zoned for commercial, industrial or urban residential uses.

c. Sidewalks shall be constructed in dedicated pedestrian ways along streets where determined necessary by the Approving Authority for pedestrian safety.

~~7.~~**6.** Sidewalk(s) shall be constructed to applicable standards (see Table 2 Urban Wasco County Roadway Design Standards in the Wasco County Transportation System Plan). Sidewalk requirements may be waived, or may be deferred through a road improvement agreement when, in the opinion of the County, sidewalks would not be immediately necessary to accommodate pedestrian traffic. **Sidewalk standards are listed in Chapter 20.**

~~8.~~**7.** Bicycle facilities shall be required along new roads when necessary to extend an existing bicycle route, or when a bicycle route or way is proposed within an adopted Transportation System Plan. **Bicycle facility standards are listed in Chapter 20.**

B. Improvement Policies and Standards: The improvement policies and standards contained herein shall apply to development conducted under provisions of this Ordinance. They are primarily intended to govern the design and construction of streets and roads which are to be accepted into the Wasco County maintained road system. These policies and standards also apply to other roads, both public and private, as determined appropriate by the Approving Authority.

~~Improvement Policies and Standards: When possible, the~~

C. **The developer of any road may elect to pay a fee in lieu of construction. The Public Works Director will determine if payment in lieu of construction is feasible. The fee amount will be determined by the Public Works Director and approved by the Board of County Commissioners. These fees must be dedicated for the express purpose of road improvements.**

D.

The developer of any road shall provide a method for future maintenance of the road. Prior to approval the applicant shall establish an enforceable road maintenance agreement binding on all participating properties subject to the land division by the applicant and running with the land. Any approval of roads shall contain a disclaimer that approval does not represent an opinion or determination by Wasco~~Crook~~ County that any such road will provide a safe or adequate travel~~l~~ing surface for vehicular or other traffic and that any such road is not eligible for county maintenance.

~~———~~It shall be the duty of the ~~Wasco County Roadmaster~~**Public Works Director** to interpret the provisions and~~-~~ requirements of these standards in such a way as to carry out their intent and purposes**, and provide this information to the Planning Director during application review**~~.~~

Section ~~21~~22.030 - Public Streets and Roads

A. General Design Policies: The design of improvements governed by these standards shall, in general, conform to policies set forth in the current editions of the following publications by the American Association of State Highway and Transportation Officials (AASHTO):

1. "A Policy on Geometric Design on Highways and Streets".

2. "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400)"

B. Design Criteria

1. Improvement of public streets and roads shall conform to the design standards designated for the particular classifications indicated in Table 21-1(Rural Public Roadway Design Standards) & 21-2 (Urban Public Roadway Design Standards) of this Chapter.

2. Roadway sections shall conform to the sections designated for the particular classifications.

3. The design of structural sections of all roadways required by this Ordinance, including arterials, collectors, local access roads and principal highways shall conform with the General Design Policies under Section 22.030 A and the standard specifications which are applicable to construction of improvements under Section 22.030 E 2 of this Chapter. Any deviation from these standards shall be approved by the County **Public Works Director**~~Roadmaster.~~

C. Standard Drawings

1. The County **Public Works Director**~~Roadmaster~~ shall have the authority to publish "Standard Drawings" for the design of public streets and roads.

2. The applicant's design shall conform to the "Standard Drawings".

D. General Considerations

1. The County ~~Roadmaster~~**Public Works Director** may impose additional design requirements as are reasonably necessary to provide safe and adequate access.

2. There shall be provided a cul-de-sac at the end of each street or road that ends within the confines of a proposed subdivision or partition. Any proposed street or road that terminates at a proposed subdivision or development boundary will be provided with a temporary cul-de-sac or turnaround which may be discontinued at such time as the road or street is extended.

3. Any road or street which does not connect directly to a County maintained road, city maintained street or state highway shall not be accepted for maintenance by the County. No other road or street shall be accepted for maintenance as a part of the County road system unless it is ordered accepted by the County Governing Body pursuant to law.

E. Development Requirements

1. Engineering:

a. Plans Construction plans may be required for improvements governed by these standards. Such construction plans shall be prepared under the direction of a consultant engineer registered in the State of Oregon, and shall be submitted for approval to the County ~~Roadmaster~~**Public Works Director** and shall include the following information:

(1) Widths of all proposed road right of way dedication.

(2) Original ground line and grade line profile on the centerline of the proposed road.

(3) Proposed drainage structures, showing both size and type of structure.

(4) Toe of fill and top of cut lines.

(5) Typical structural section of roads to be constructed.

(6) Section lines, fractional section lines and/or Donation Land Claim lines. Also, bearing and distance from which the centerline description is prepared, and basis of bearings.

(7) A vicinity map in the upper left hand corner of the first plan sheet showing the relationships of the proposed road to cities, state highways, county roads, or other well defined topographical features.

(8) Proposed utilities, showing location and type. Also, a written statement that locations have been approved by affected utility companies. A composite map shall be furnished by the consultant engineer to all affected utilities.

(9) The plans shall contain a standard symbol sheet approved by the County ~~Roadmaster~~**Public Works Director**.

(10) The stamp and signature of a consultant engineer preparing the plans.

(11) The location and dimensions of the pedestrian circulation system.

(12) The location and dimensions of bicycle parking, when required.

b. Cost Estimates The consultant engineer shall submit, with his proposed construction plans, a construction cost estimate. This estimate shall include all related road work and affected utility installation and/or relocation.

c. ~~Monumentation~~ **Right of Way Survey** ~~All horizontal curve points shall be referenced with a 5/8" x 30" steel rod set perpendicular to the tangents at the right of way line and witnessed by a white 4" x 4" x 4' cedar post or a four foot section of steel fence post painted white. In the case of a curbed street, the witness posts may be omitted.~~**All newly dedicated public streets and roads shall be surveyed and monumented in accordance with the provisions of ORS 368,**

ORS 92, and ORS 209. The County Surveyor may waive the need to establish monument in the centerlines of unpaved streets and roads.

2. Construction:

   a. Standard Specifications The Standard Specifications which are applicable to the construction of improvements governed by these standards are the following (except as they may be modified, supplemented or superseded by provisions contained herein):

      (1) "Standard Specifications for Highway Construction", most recent edition, published by the Oregon Department of Transportation, Highway Division, except for the General Provisions contained in Sections 102 through 109.

      (2) “Oregon Standard Specifications for Construction”, most recent edition, published by the Oregon Chapter of the American Public Works Association (APWA) and the Oregon Department of Transportation (ODOT).

      References to "State and Highway Commission" shall be construed to mean Wasco County and the Wasco County ~~Governing Body~~**Board of County Commissioners**, respectively. ~~"Engineer" and "Director" shall be construed to mean the County Roadmaster, or his properly authorized agent(s) acting within the scope of his (their) particular duties.~~

   b. Permits A permit to occupy and perform operations shall be obtained from the County ~~Roadmaster~~**Public Works Director** prior to commencing construction within the right of way of any County maintained road.

   c. Bond Requirements Before the dedication or deed to the public for street or road right of way is accepted by the **Board of County Commissioners**~~County Governing Body~~, the applicant shall provide a performance bond or other security, as set forth in Section 21.110 F of this Ordinance.

   d. Inspection Schedule After financial assurance is received by the County, the applicant shall arrange for periodic inspection by his consultant engineer. At a minimum, such inspection shall occur at the following stages of construction:

      (1) After clearing and grubbing is completed.

      (2) After grading and drainage is completed.

      (3) After rock surface is completed.

(4) After paving is completed.

e. Certification and Warranty Requirements

(1) When the project is completed, the ~~consultant~~ **applicant's** engineer shall certify to the County, in writing, that the project has been constructed in substantial conformance with the plans and specifications. The certification shall include a copy of the results of all conformance tests performed in conjunction with the design and construction of the project.

(2) Upon receiving said certification, the County will accept the project for normal and routine maintenance, provided the applicant posts a warranty bond equal to twenty percent (20%) of the performance bond required in Section E 2 c of this Section for the correction of any deficiencies that may arise within a period of one (1) year.

(3) Upon receiving the warranty bond for the correction of deficiencies and upon certification by the County ~~Roadmaster~~**Public Works Director** that the provisions of the improvement agreement are complete, the performance bond required by Section E 2 c of this Section shall be released to the applicant.

(4) The County ~~Roadmaster~~**Public Works Director** ~~-~~shall inspect the project at the end of one (1) year and list the deficiencies to be corrected and shall notify the applicant of such deficiencies. In the event no deficiencies are found, the warranty bond will be released to the applicant at that time.

(5) Upon notification of the deficiencies, the applicant shall commence corrective work within thirty (30) days and shall complete such work at the earliest possible date. Upon satisfactory completion, the warranty bond shall be released to the applicant.

(6) In the event the applicant fails to commence corrective work within thirty (30) days of notification of deficiencies, the County shall cause the corrective work to be accomplished and call on the warranty bond for reimbursement. If the amount of the warranty bond exceeds cost and expenses incurred by the County, the County shall release the remainder; and if the amount of the warranty bond is less than the cost and expenses incurred by the County, the applicant shall be liable to the County for the difference.

f. As Constructed Plans The County ~~Roadmaster~~**Public Works Director**, at the completion of the project, may require the ~~consultant~~ **applicant's** engineer to furnish permanent reproducible plans of the work or an "as constructed" modification of the original permanent reproducible plans previously submitted, as may be required under subsection E 1 a of this Section.

(1) The title sheet shall contain the ~~consultant~~ **applicant's** engineer's signed P.E. stamp and a certification signed by the engineer "that the project has been constructed in substantial conformance with the plans and specifications".

(2) The title sheet shall contain in the title block the name of the street or road; the name of the subdivision; the names of the applicant and ~~consultant~~ engineer preparing the plan; the location of the street or road according to Section, Township and Range; a typical section showing surfacing, thickness and types, side slopes and cut and fill slopes; and, a vicinity map of approximately 1"= 1 mile showing where the street or road is located in relation to Sections, Townships and Ranges and surrounding topographical features and its connections to existing County or State highways.

(3) The plans shall show the centerline alignment and all curve data, and direction of tangents, the location and monumentation of the street or road, right of way widths, drainage easements, section lines, lot lines of the subdivision, and all drainage structures, their sizes, lengths and locations, and underground utilities, their types, sizes and locations.

(4) The plans shall show the original ground line and the finish grade on the centerline, all P.I. elevations and stations, elevations of vertical curves and tangent grades.

(5) The plans shall have a title block in the lower right hand corner giving the name of the street or road, the subdivision, the name of the ~~consultant~~ engineer preparing the plans and the name of the applicant.

(6) The ~~consultant~~ engineer will provide accurate "as constructed" plans to all affected utility companies.

g. Signing Permanent traffic control and street or road identification signs will be required for all subdivisions.

(1) The applicant shall deposit (in cash) with the County ~~Roadmaster~~**Public Works Director**, an amount determined by the ~~Roadmaster~~**Public Works Director** adequate for the construction and installation of permanent signing

required. Upon receiving said cash deposit, the County will prepare, place and maintain required permanent signing.

(2) Temporary construction signing will be required on all streets and roads under construction which are being used by the public. Temporary construction signing shall be in conformance with the "Manual on Uniform Traffic Control Devices", as published by the Department of Transportation, Federal Highway Administration, and supplemented by State of Oregon "Standard Practice and Interpretations", and shall be furnished, installed, maintained and removed at the expense of the applicant.

Section ~~21~~22.040 - Private Roads

A. General Design Policies: Private roads shall conform to the requirements outlined in **Chapter 21, Section 21.030.**

B. Design Criteria

1. Finished top surface width of roads shall be a minimum of ~~twelve (12)~~**12** feet **on straight sections and through gentle curves, 14 feet on single curves with less than 150-foot radius, and 16 feet when curves are linked or located on a slope in excess of 10%**~~.~~

2. The roadbed shall have an all-weather surface of suitable material, in good repair and of sufficient depth to ensure a solid roadbed, but in no case less than four ~~(4)~~ inches of crushed rock.

3. Turnouts shall be provided no further than ~~six~~ **four** ~~hundred (~~**4**~~6~~00~~)~~ feet apart and not less than ~~fifty~~ **forty** ~~(~~**4**~~5~~0~~)~~ feet in length and eight ~~(8)~~ **additional** feet in width excluding taper.

4. The ~~County Roadmaster~~**Public Works Director**~~designated County Road Official~~ may require paving for road profile grades exceeding ~~fifteen percent (~~15%~~)~~, and in no case shall a grade exceed ~~twenty percent (~~20%~~)~~.

5. Cross culverts of adequate size (minimum ~~eighteen inches~~**18”** in diameter) shall be provided to carry storm run-off under the roadway.

6. All cut and fill slopes shall be 1.5:1 or flatter; unless steeper slopes are determined feasible by a consultant engineer. A fallout area may be necessary for any slope steeper than 1.5:1.

7. Adequate roadside ditches shall be provided to carry storm run-off. Roadside ditches in excess of seven percent ~~(7%)~~ grade and in erodible soils shall be lined with suitable material to prevent erosion.

C. General Considerations

1. The Public Works Director shall determine if the private road meets the improvement standards and shall submit his findings as a written recommendation to the Approving Authority.

~~1.~~**2.** The Approving Authority, upon recommendation of the ~~designated County Road Official~~~~County Roadmaster~~**Public Works Director**, may impose additional requirements as are reasonably necessary to provide a safe and adequate access.

3. Private roads shall be maintained by the benefited property owners and shall not be accepted by the County for maintenance.

a. The following notice shall appear in legible print on the face of any proposed final plat containing a lot or parcel to be served by a private road: "Wasco County hereby gives notice to all developers, purchasers, potential purchasers and all third parties that the County disclaims any liability whatsoever for any damage which may occur as a result of the failure of the developer to construct, improve or maintain roads in this proposed land division. This notice serves as acknowledgment that the County is not liable for any improvement or maintenance actions or costs affiliated with this private road."

b. A waiver of remonstrance for future road improvements is be required to be recorded with the County Clerk's office at the time of partition or subdivision.

D. Approval of a Private Road

1. The Approving Authority shall approve a private road if it finds that the private road meets the basic provisions and design standards of Section 21.030 and also the improvement standards for private roads.

2. Upon approval of such private road, the applicant shall submit a boundary line or centerline survey of the road, unless the location of the road is already established by existing property line surveys recorded with the County Surveyor. The boundary line survey shall be submitted to the Planning Director and the Wasco County Surveyor.

~~D.~~**E.** Certification and Special Considerations

1. The ~~**designated County Road Official** County Roadmaster~~**Public Works Director** ~~may~~ require the applicant to retain a**n** ~~consultant~~ engineer to inspect his private road project. When the project is completed, that engineer shall certify to the County, in writing, that the project has been constructed in substantial conformance to the County's current improvement standards.

2. In the event an existing road is to be used for access to a land division, it shall be inspected by a**n** ~~consultant~~ engineer retained by the applicant ~~and,~~**to determine** if **it can be** found adequate for the intent and purposes of the private road requirements~~, shall be approved~~.

F. Signing: Permanent traffic control and street or road identification signs will be required at the intersections of private roads with County maintained roads. **The developer is responsible for the installation and maintenance of such road or street signs according to Wasco County Public Works standards and with the Public Works Director approval.**

~~The applicant shall deposit (in cash) with the **designated County Road Official**County Roadmaster, an amount determined by the Director adequate to cover the costs of construction and installation of required permanent signing required. Upon receiving said cash deposit, the County will prepare, place and maintain required permanent signing.~~

~~a. **The developer is required to post and provide for the maintenance of signs on the road stating that the County does not maintain the facility. Such signs shall say "Road privately maintained by property owners".**~~

~~2.~~**1.** Temporary construction signing will be required on all streets and roads under construction which are being used by the public. Temporary construction signing shall be in conformance with the "Manual on Uniform Traffic Control Devices", as published by the Department of Transportation, Federal Highway Administration, and supplemented by State of Oregon "Standard Practice and Interpretations", and shall be furnished, installed, maintained and removed at the expense of the applicant.

Section ~~21~~22.050 - Roadway Improvement Standards

A. Roadway Requirements

1. No development shall occur unless the roadways adjacent to the development meet the standards of this section, unless the following applies:

    a. A development may be approved if the adjacent roadway does not meet the standards but half-street improvements meeting the standards of this title are constructed adjacent to the development.

    b. Roadways under the jurisdiction of the Oregon Department of Transportation shall be improved to state standards.

B. Minimum Right-of-Way Width - The width of street right-of-way provided in Table 1 shall be the minimum widths of rights-of-way for streets existing along and adjacent to any boundary of the subdivision or partition which is the natural or planned continuation of the alignment of the existing or proposed streets. Unless otherwise indicated on the official roadway map, the width of all rights of way and roadway improvements shall be in compliance with the following:

1. Arterials: A minimum right of way width of ~~sixty (~~60~~)~~ feet.

2. Collectors: A minimum right of way width of ~~sixty (6~~0~~)~~ feet.

3. Local Roads: A minimum right of way width of ~~fifty (~~50 ~~)~~ feet.

C. Partial street improvements - Partial street improvements resulting in a pavement width of less than 16 feet; while generally not acceptable, may be approved where essential to reasonable development when in conformity with the other requirements of these regulations, and when it will be practical to require the improvement of the other half when the adjoining property developed.

D. Improvements Guarantee in Lieu of Improvements - If the County could and would otherwise require the applicant to provide street improvements, the County **Public Works Director**~~Roadmaster~~ may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist:

1. A partial improvement is not feasible due to the inability to achieve proper design standards;

2. A partial improvement may create a potential safety hazard to motorists or pedestrians;

3. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the



improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;

4. The improvement would be in conflict with an adopted capital improvement plan;

5. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets; or

6. Additional planning work is required to define the appropriate design standards for the street and the application is for a project which would contribute only a minor portion of the anticipated future traffic on the street.

E. Off-site Improvements - Off-site improvements, such as pavement construction or re-construction of existing street(s) proposed for access to the subdivision or partition, which are inadequate or in failing condition, may be required. Off-site transportation improvements will include bicycle and pedestrian improvements, as identified in the adopted Wasco County Transportation System Plan.

Section ~~21~~22.060- Access Control

A. Purpose. The following access control standards apply to industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the Wasco County Transportation System Plan. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the county. Access management is a primary concern on these roads. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. The regulations in this section further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision or partitioning of land.

B. Access Control Standards.

1. Traffic Impact Analysis Requirements. The County or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also, Section 4.~~180~~ **140** Traffic Impact Analysis.)

2. The County or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of



reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

3. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (a minimum of 10 feet per lane is required).

   a. Option 1. Access to the lower order roadway.

   b. Option 2. Access is from a private ~~street~~ **road** or driveway connected to an adjoining property that has direct access to a public ~~street~~ **road** (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public ~~street~~ **road** for all users of the private ~~street~~**road**/drive.

   c. Option 3. Access is from a public ~~street~~ **road** adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. ~~Street~~ **Road** accesses shall comply with the access spacing standards in S**ection 2**2.060**(B)(5)**~~ubsection e.~~, below.

4. Subdivisions and Partitions Fronting Onto an Arterial Street. New residential land divisions fronting onto an arterial street shall be required to provide secondary (local or collector) streets for access to individual lots.

5. Access Spacing. Minimum access spacing standards apply to newly established public street intersections, private drives, and non-traversable medians.

   a. Standards are found in Table 7.2, Rural Wasco County Roadway Design Standards and Table 7-3 Urban Wasco County Roadway Design Standards, in the Wasco County Transportation System Plan**, and also Table 2**2-**1 & 2**2-**2 at the end of this chapter**~~.~~

   b. Access to State Highways and Interchanges. Access to a transportation facility under the jurisdiction of the Oregon Department of Transportation (ODOT) shall be subject to the applicable standards and policies contained in the Oregon Highway Plan and the requirements of OAR 734-051.



6. Number of Access Points. For single-family housing types, one street access point is permitted per lot, when secondary (local or collector) street access cannot otherwise be provided. The number of street access points for commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection (g) below, in order to maintain the required access spacing, and minimize the number of access points.

7. Shared Driveways. The number of driveway and the frequency with which private streets intersect with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The County shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

    a. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. ~~"Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).~~

    b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

    c. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

C. ~~Notwithstanding Section ,~~ **U**~~u~~pon the recommendation of the County ~~Roadmaster~~**Public Works Director** the County may reduce access spacing standards if the following conditions are met:

1. Joint access (shared) driveways and cross access easements are provided in accordance with the standards;

2. The site plan incorporates an integrated access and circulation system in accordance with the standards;

3. The property owner enters into a written agreement with the County that pre-existing connections on the site will be closed and eliminated after construction of each side of the shared driveway; and,

4. The proposed access plan for redevelopment properties moves in the direction of the spacing standards.

D. The County ~~Roadmaster~~**Public Works Director** may modify or waive the access spacing standards for roadways under County jurisdiction where the physical site characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical and would make meeting the access standards infeasible, subject to the following:

1. The application of the location of access standard will result in the degradation of operational and safety integrity of the transportation system.

2. The granting of the modification or waiver shall meet the purpose and intent of these standards and shall not be considered until every feasible option for meeting access standards is explored.

3. Applicants for modification or waivers from these standards must provide proof of unique or special conditions that make strict application of the standards impractical. Applicants shall include proof that:

   a. Indirect or restricted access cannot be obtained;

   b. No engineering or construction solutions can be applied to mitigate the condition; and,

   c. No alternative access is available from a road with a lower functional classification than the primary roadway.

   d. The hardship is not self-created.

E. Street/roadway Connectivity and Formation of Blocks Required. In order to promote efficient vehicular and pedestrian circulation throughout the county, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private roads, in accordance with AASHTO design standards. For residential and commercial developments, the maximum block length shall not exceed 600 feet, with the maximum perimeter not to exceed 1,400 feet.

Section 22.070**- Provisions for New Roads Not in Conjunction with a Land Division**

If multiple lawfully created units of land are found to exist but are undeveloped, a new road may be required for access purposes prior to development or when the development changes the road classification as defined by the number of trips per day.

A. **New private roads may be created to provide access to unimproved property only when the Planning Director finds that the private road will be needed for proper development related to the proposal. The Planning Director's decision shall be made only after receiving and reviewing a written recommendation from the Public Works Director.**

B. **The Planning Director's decision to allow or not allow creation of a private road to access proposed development is a land use action that shall be supported by written findings and** subject **to the notice provisions in Chapter 2.**

C. **A restrictive covenant removing the County from improvement or maintenance liability shall be required for all new private roads.**

D. The private road shall meet all standards consistent with this Chapter and Chapter 10.

Section 22.080**- Road Vacations**

Road vacations shall be processed by the Public Works Director, according to ORS 368.326-368.366.

Table 22-1 – Rural Wasco County Public Roadway Design Standards

	Rural Local Roads									Rural Minor Collector			Rural Major Collector			Rural Arterial		
	Unpaved			Unpaved			Paved			Paved			Paved			Paved		
Design ADT	<25			25-250			25-250			250-400			400 – 2,000			>2,000		
Terrain[1]	L	R	M	L	R	M	L	R	M	L	R	M	L	R	M	L	R	M
Design Speed (mph)	30	30	20	30	30	20	30	30	20	40	30	20	50	40	30	60	50	40
Max Grade (%)	7	10	12	7	10	12	7	10	12	7	9	12	6	8	10	3	4	8
Stopping Sight Distance (ft)	220	235	135	220	235	135	220	235	135	340	230	135	475	350	235	600	610	350
Passing Sight Distance (ft)	-	-	-	-	-	-	1,090	[2]	[2]	1,470	[2]	[2]	1,835	[2]	[2]	2,135	[2]	[2]
Traveled Way Width (ft)	18	18	18	22	22	22	22	22	22	22	22	22	24	24	24	24	24	24
Paved Shoulder Width (each side)																		
- Non Bike Route	-	-	-	-	-	-	-	-	-	1	1	1	1	1	1	2	2	2
- Bike Route (ft)	-	-	-	-	-	-	-	-	-	2	2	2	5	5	5	6	6	6
Gravel Shoulder Width (each side)	-	-	-	-	-	-	2	2	2	2	2	2	2	2	2	2	2	2
Roadway Width (Non Bike / Bike Route) (ft)	18	18	18	22	22	22	26	26	26	28 30	28 30	28 30	30 38	30 38	30 38	32 40	32 40	32 40
Number of Lanes	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Minimum ROW Width (ft)	50	50	50	50	50	50	50	50	50	60	60	60	60	60	60	60	60	60
Preferred Access Spacing[3]	75			100			100			150			300			500		

[1] L= Level, R=Rolling, M=Mountainous

[2] See AASHTO manual for guidance.

[3] Lower spacing may be allowed when supported by a traffic study and/or approved by the County Engineer.

Table 22-2 – Urban Wasco County Public Roadway Design Standards

	Local Street	Urban Minor Collector	Urban Major Collector	Urban Arterial
Design ADT	<1,000	1,000-3,000	3,000–6,000	>6,000
Design Speed (mph)	25	25-30	25-35	25-35
Max Grade	12%	10%	10%	6%
Minimum ROW Width (ft)	58	64	63-76	90
Number and Width of Lanes	2 12' Travel Lanes	2 12' Travel Lanes	2 12' Travel Lanes	3 Two 12' Travel Lanes 14' Center Turn Lane
Traveled Way Width (ft)	36	40	52	50 or 66
On-Street Parking (ft)	Not striped	8 (each side)	8 (each side)	8 (each side), optional
Sidewalk Width (ft)	5 (each side)	5 (each side)	5 (each side)	5 (each side)
Bike Lane Width (ft)	-	-	6	6
***Preferred Access Spacing (ft)**	50	150-300	150-300	300-600

Note: The urban roadway design standards apply to all County roadways in urban areas (incorporated communities). However, local roadway design standards may be utilized when deemed appropriate. *Lower spacing may be allowed when supported by a traffic study and/or approved by the local jurisdiction

Table 22-3 – Private Access Standards

Location in Zones	Designation	Responsibilities for Maintenance	Minimum Improvement Standards	Minimum Width of Easement	Maximum Number of Lots, Parcels or Units of Land
All Zones	Driveway	Property Owners	Fire Safety Standards	No Easement Required	One
All Zones	Private Easement Road	Property Owners	Fire Safety Standards	30 Feet	Three (3) provided the service to additional lots parcels or units of land is improbable

Resource Zones Only (F-1, F-2, & A-1)	Private Road	Property Owners	*Improve with minimum of four inches (4") of base rock	*30 Feet with 12 feet of travel surface.	Ten (10) provided that no more than three (3) lots are less than ten (10) acres in size and the primary use is resource related.

*See Section 21.040 for complete standards.

Figure 22-3 – Hierarchy of Property Access (See Figures 21-4 – 21-7 Below)

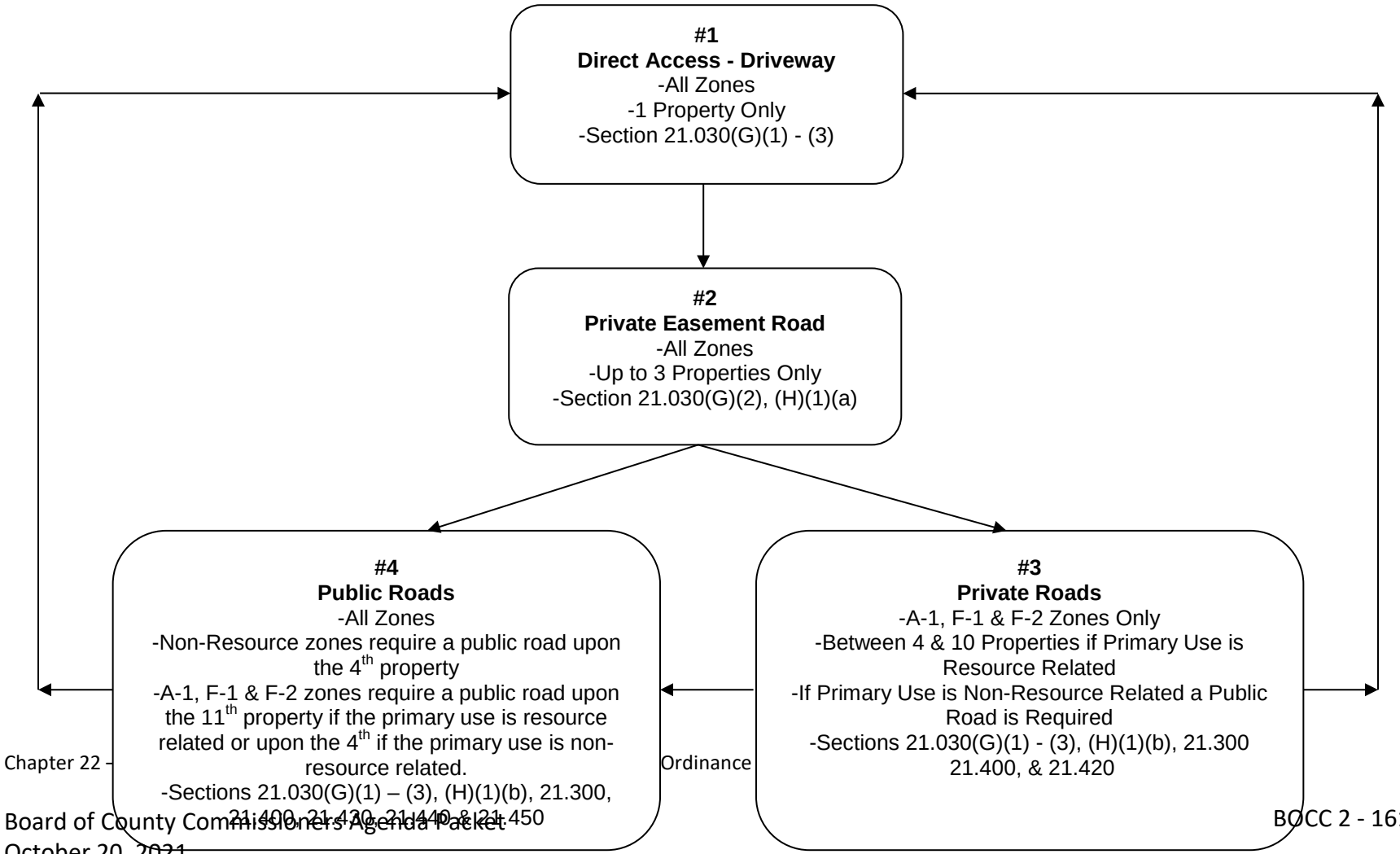


Figure 22-4 – Direct Access via a "Public Road" or "Private Road" (Driveway)

In all zones, a single property is considered to have direct access via a "Public Road" or "Private Road" if the property intersects a lawfully established "Public Road" or "Private Road" and has a legal right to enter and exit the "Public Road" or "Private Road".

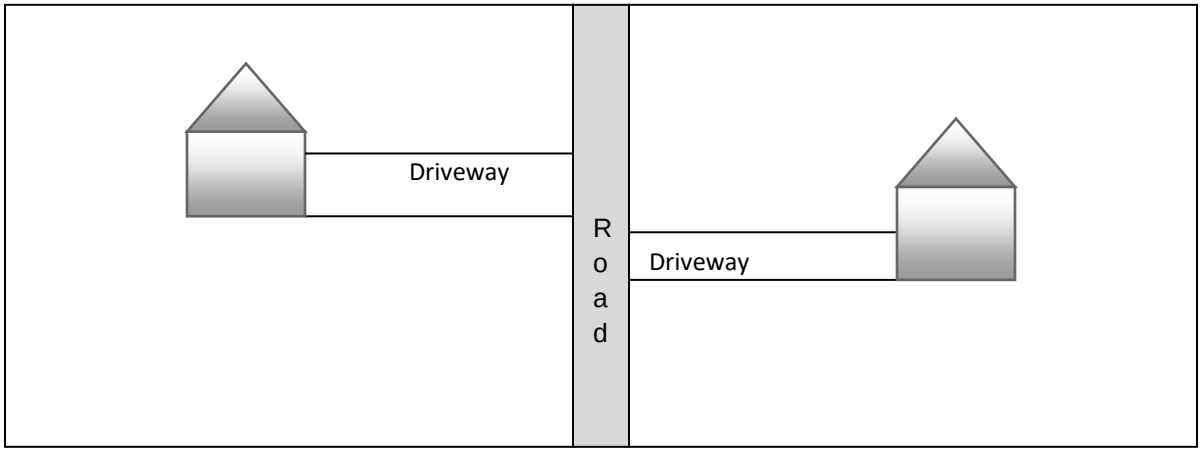


Figure 22-5 – Private Easement Road

In all zones, up but not exceeding 3 properties may have their primary access by way of a "Private Easement Road". Upon the fourth, it must become "Public Road" or "Private Road" depending on the zone and the primary use of the properties.



Figure 22-6 – Private Road

In A-1, F-1 & F-2 Zones only, between ~~4~~ **four** and **ten**~~10~~ properties may have their primary access via a "Private Road" if the primary use of the properties is resource related. If the primary purpose is non-resource the access shall become a "Public Road" upon the ~~4th~~ **fourth** property using it as its primary access.

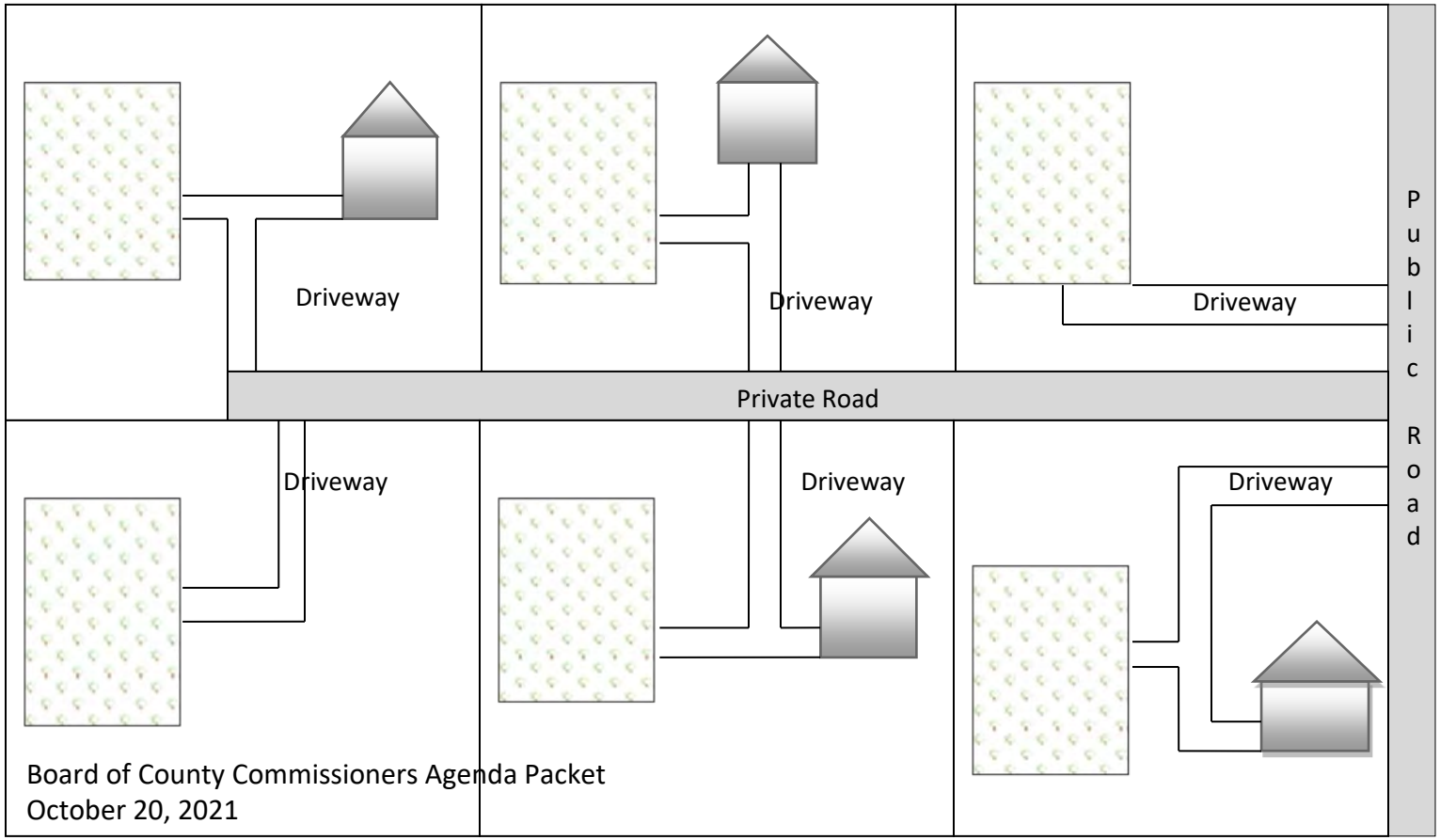
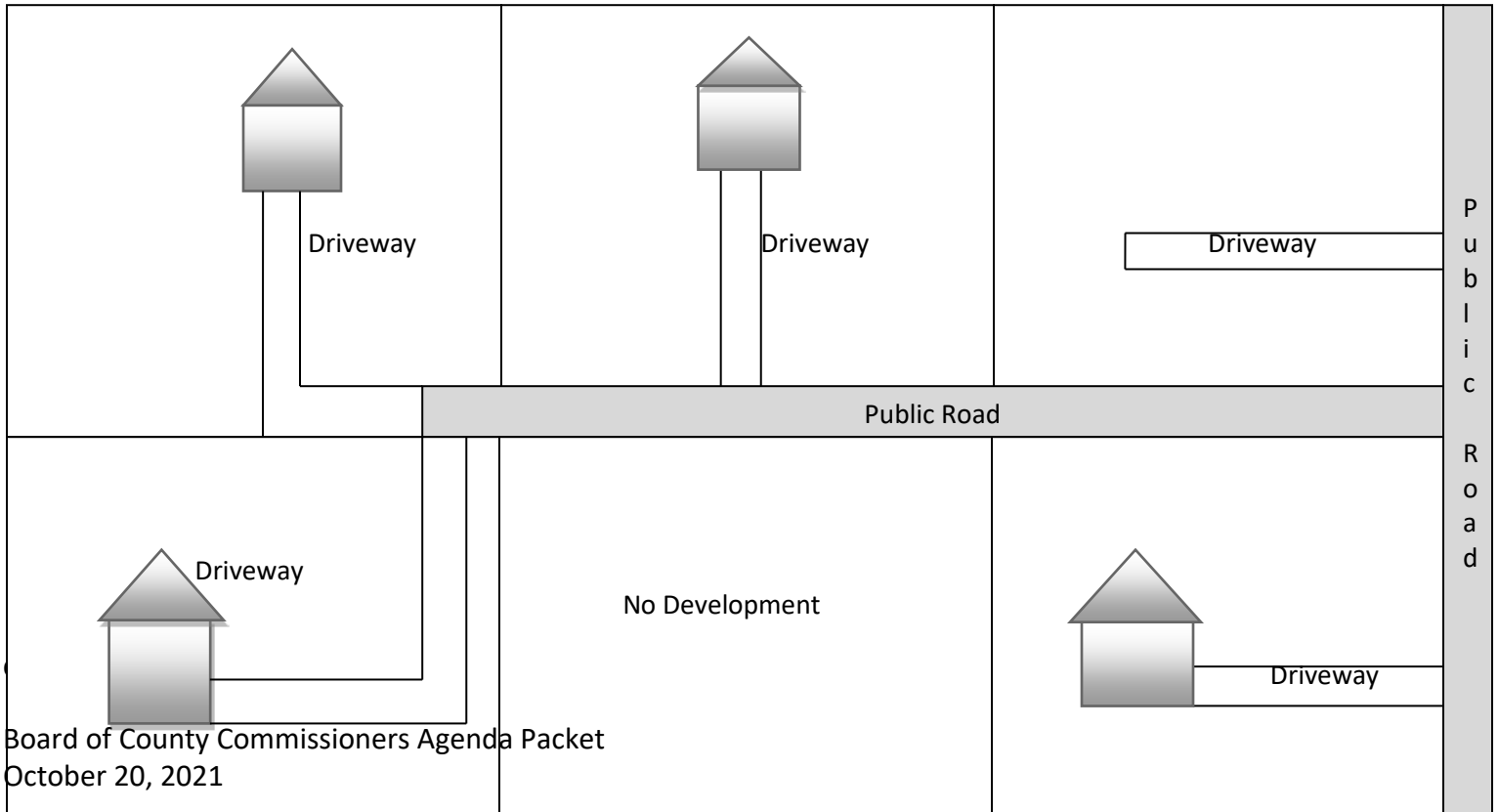


Figure 22-7 – Public Road

In non-resource zones an access shall become a "Public Road" if it provides primary access to more than 3 properties. In A-1, F-1 & F-2 Zones an access shall become a "Public Road" upon the 11th property if the primary use is resource related or upon the 4th if the primary use is non-resource related. There are no limitations to the number of properties having their primary access via a publicly dedicated road.



Section 22.070- Dedication of Private or Public Streets not part of a LandSubdDivision ~~Private Road Approval Public Road Dedications~~

Any person desiring to create a public or private road not part of a subdivision or land division shall make written application to the Director. Approval of a public or private road is reviewed by the County Governing Body. Public or private roads being created as part of a subdivision or land division shall be reviewed by the Planning Commission subject to the provisions of Section 2.060(B).

~~E.~~**G.** Application ~~for Tentative Plan~~**Process**

1. An application for tentative plan approval for road or street dedication or private road approval shall be initiated as provided in Chapter 2 of this Ordinance.

~~2.~~ **Any person desiring to create a street not part of a subdivision or major partition shall make written application to the Planning Director. Said application shall be made on prescribed forms, and shall be accompanied by the required information and appropriate filing fee**~~The applicant shall submit to the Director a written application of a Tentative Plan prepared in accordance with subsection B of this section.~~

~~3.~~**2.** The Director shall distribute a copy of the ~~Tentative Plan~~**Preliminary map** to the County ~~Roadmaster~~**Public Works Director**~~-~~**Designated County Road Official, and local fire district to**~~and~~ obtain **their written** ~~his~~ recommendation on the proposed action.

~~F.~~**H.** Information Required on ~~Tentative Plan~~**Preliminary map**: ~~Tentative Plans~~**Preliminary maps shall be the same as set forth for the requirements for subdivisions, section nnn.** ~~shall include the following information presented in the following form:~~

~~1. The Tentative Plan shall be clearly and legibly drawn to an appropriate scale so that the Approving Authority may have an adequate understanding of what is proposed.~~

~~2. A vicinity map showing the proposal in relationship to other existing or proposed streets.~~

~~3. Date, north point and scale~~

~~4. Name and address of applicant and the person preparing the Tentative Plan.~~

~~5. Appropriate identification of the drawing as a Tentative Plan.~~

~~6. Location of the proposed dedication or private road abutting the unit of land proposed to be approved by the Section, Township and Range sufficient to define its location and, if available, a centerline description or right of way boundary description.~~

~~7. Zoning classification and Comprehensive Plan Map designation.~~

~~8. The names of adjacent subdivisions and the names of recorded owners of adjoining lots, parcels or units of land and the amount of frontage each owner has on the proposed dedication or on the private road.~~

~~9. Existing roads or street(s) intersecting or meeting the proposed dedication or private road.~~

I. Procedure

~~G.~~**J.** ~~Approval of Road or Street Dedication~~**Process~~s~~**

~~1. After considering the recommendation by the County Roadmaster, the Approving Authority shall approve the Tentative Plan for road or street dedication and recommend to the County Governing Body the dedication of a public road if it determines that:~~

~~a. the information required by this section has been provided;~~

~~b. the road or street is or will be improved to meet all applicable standards of these regulations; and~~

~~c. dedication of the road or street to the public is consistent with the goals, policies and map of the Comprehensive Plan.~~

Upon receipt of written application and appropriate filing fee for street dedication, the Planning Director shall refer the proposal to the county road department for review and written findings and recommendations.

a. Upon receipt of written findings and recommendations from commission and road department, the proposal shall be submitted to the ~~county courtcounty governing body~~Board of County Commissioners for preliminary review and approval. Such submission shall be made at least 10 days prior to a regularly scheduled meeting.

~~2.~~**1.** If Tentative Plan to dedicate a road or street is recommended to the ~~County Governing Bod~~**Board of County Commissioners**~~y~~, and the street to be dedicated has not been improved, the Approving Authority shall recommend conditional approval on improvements of the road or street to the improvement standards recommended by the ~~County Designated County Road Official~~ ~~Roadmaster~~**Public Works Director**~~.~~

~~H.~~**K.** ~~Acceptance of~~**Final approval and** Dedication by the County Governing Body

1. Before the **Board of County Commissioners** ~~County Governing Body~~ may accept the dedication, the applicant must have completed any improvements required as a condition of the approval of the dedication or have complied with Section 21.210 F of this Chapter.

2. Prior to acceptance by the ~~County Governing Body~~**Board of County commissioners**, the owner of the land to be dedicated shall submit a preliminary title report issued by a title insurance company in the name of the owner of the interest in the land.

~~3.~~ Upon acceptance of the dedication by the ~~County Governing Body~~**Board of County Commissioners**, the owner of the land to be dedicated shall prepare a warranty deed dedicating the land to the public **and contact the County Taxation and Assessment Department for any tax adjustments**~~.~~

3. The County Governing Body shall indicate their approval of the dedication by an order accepting the deed and by recording such order with the recording of the deed.

4. **Upon approval of such private road, the applicant shall submit a boundary line or centerline survey of the road, unless the location of the road is already established by existing property line surveys recorded with the County Surveyor. The boundary line survey shall be submitted to the Director and the Wasco County Surveyor.**

5. No road or street will be accepted for maintenance as part of the county road system unless it meets the standards of subsection (B) and (C) of this Section and is ordered accepted by the County Governing Body pursuant to law.

~~I. Approval of a Private Road~~

~~1. The County Roadmaster shall determine if the private road meets the improvement standards and shall submit his findings as a written recommendation to the Approving Authority.~~

~~2. The Approving Authority shall approve a private road if it finds that the private road meets the basic provisions and design standards of Section 21.030 and also the improvement standards for private roads.~~

~~3. Upon approval of such private road, the applicant shall submit a boundary line or centerline survey of the road, unless the location of the road is already established by existing property line surveys recorded with the County Surveyor. The boundary line survey shall be submitted to the Director and the Wasco County Surveyor.~~



IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE WASCO COUNTY PLANNING COMMISSION'S REQUEST TO APPROVE PROPOSED LEGISLATIVE AMENDMENTS TO UPDATE THE WASCO COUNTY LAND USE AND DEVELOPMENT ORDINANCE

ORDINANCE # 21-002

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board of Commissioners being present; and

WHEREAS, the Wasco County Planning Commission and the Wasco County Board of Commissioners directed the Wasco County Planning Department to pursue Voluntary Periodic Review to update the Wasco County Comprehensive Plan on 5 October 2016; and

WHEREAS, Wasco County entered Periodic Review on 20 February 2018 with approval from the Department of Land Conservation and Development's (DLCD) approval of a work plan; and

WHEREAS, the revisions included many changes that impact the Wasco County Land Use and Development Ordinance; and

WHEREAS, the Wasco County Comprehensive Plan was approved by DLCD and the Wasco County Planning Department initiated the Land Use and Development Ordinance (LUDO); and

WHEREAS, in March 2021 the Planning Department initiated public outreach about LUDO Updates including state law related updates, procedural revisions and amendments based on the Comprehensive Plan Update; and

WHEREAS, the Wasco County Planning Department sent notification to DLCD pursuant to ORS 197.610 on August 3, 2021; and

WHEREAS, all property owners within unincorporated Wasco County were sent notice of proposed revisions on August 16, 2021 consistent with ORS 215.503; and

WHEREAS, that on September 7, 2021, at the hour of 3:00 PM via electronic methods duly posted Wasco County Planning Commission held the first legally notified public hearing to review recommendations by staff background information, and receive public testimony on the revisions and with unanimous vote recommended approval to the Wasco County Board of Commissioners; and

WHEREAS, that on October 20, 2021 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the first of two legally notified public hearings on the above matter. The Board of County Commissioners

reviewed recommendations by the Wasco County Planning Commission, staff's presentation, and received testimony from the public. The Board of County Commissioners tentatively approved the amendments; and

WHEREAS, that on November 3, 2021 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the second of two legally notified public hearings on the above matter. The Board of County Commissioners reviewed recommendations by the Wasco County Planning Commission, staff's presentation, and received testimony from the public. The Board of County Commissioners , by a vote of __ to __, approved the amendments and conducted the second reading, recommending submittal to DLCD; and

NOW, THEREFORE, IT IS HEREBY ORDERED: That the request by the Wasco County Planning Department for a legislative amendment to the Wasco County Land Use and Development Ordinance are hereby approved; and

WHEREAS, Pursuant to Oregon Revised Statute 197.615, submission of adopted land use regulation change is required to be sent to the Department of Land Conservation and Development for acknowledgment, and once updates are acknowledged they will be effective.

DATED this 3rd day of November 2021.

APPROVED AS TO FORM:

_____

_____,County Counsel

WASCO COUNTY BOARD OF COMMISSIONERS:

_____,

Scott Hege, Commission Chair

ATTEST:

_____

Steve D. Kramer, County Commissioner

_____

Kathy Clark, Executive Assistant

_____,

Kathy Schwartz, County Commissioner

Land Use and Development Ordinance Update 2021

Planning Department

Purpose of Chapter 2

- Provides Procedures to all Permit Processing
  - ✓ Permit Roadmap
  - ✓ Public Notice
  - ✓ Legal Compliance
  - ✓ Efficiency & Equity



Reasons for Update



- Ensure Permitting Process is:
  - ✓ Easier to Understand
  - ✓ More Efficient
  - ✓ Complies with State Law

Revision Process

- Staff Review & Edits
  - ✓ 2019-2020: In-depth sectional assessment
  - ✓ 2020: Combine and collate revisions
  - ✓ 2020-2021: Attorney review
  - ✓ 2021: Public review & input

Revision Summary: Chapter 2



- Conformance with state law
- Less redundancy and fewer sections
- In-text hyperlink citations & cross references
- Reduced legalese and jargon where possible
- Concise permit review and appeals process
- Concise hearing procedures
- Permit & review table

Overview

Environmental Protection Districts (EPDs)



Overlay Zones (OZ)

01 - Flood Hazard

02 - Geologic Hazards

03 - Airport Impact

04 - Cultural, Historic, Archaeological

05 - Mineral and Aggregate

06 - Reservoir Buffer

07 - Natural Areas, Wild and Scenic Rivers and Oregon Scenic Waterways

08 - Sensitive Wildlife Habitat

09 - Big Muddy Limited Use

10 - Badger Creek Limited Use

11 - Pine Hollow Airport

12 - Sensitive Bird Site

13 - Western Pond Turtle

14 - Camp Morrow Limited Use

Overview

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04 - Cultural, Historic, Archaeological

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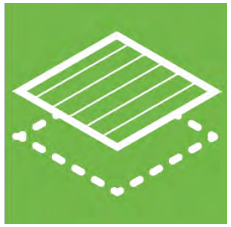
11 - Pine Hollow Airport

12 - Sensitive Bird Site

13 - Western Pond Turtle

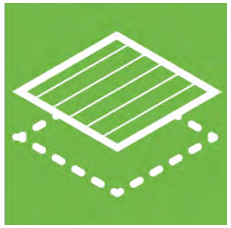
14 - Camp Morrow Limited Use

Proposed Updates
All EPDs



- Update name from Environmental Protection District to Overlay Zones
- Clarified language under Applicability Section to include property line adjustment as subject to review
- Purpose Statement Sections
- Process of Protection
- Relationship to Base Zone

Proposed Substantive Updates
Required by Wasco2040, State Law



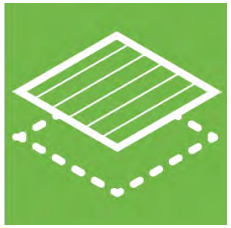
- EPD 4 Cultural, Historic, Archaeological
  Remove Historic Landmarks Commission in favor of Planning Commission

- EPD 5 Mineral and Aggregate
  Transitioning from Division 16 to Division 23 of OAR 660

- EPD 7 Natural Areas, Wild and Scenic Rivers, and Oregon Scenic Waterways
  Protects three unique categories of resources
  Clarify specific relationship to the Base Zone
  If developing within this zone, notification to government partners

- EPD 12 Sensitive Bird Site
  Clarified which Sensitive Birds are protected

Proposed Optional Updates



- EPD 5 Mineral and Aggregate
  Flexibility in the hours of operation, ODOT

- EPD 9 Big Muddy Limited Use, 10 Badger Creek Limited Use, and Camp Morrow Limited Use
  Added the actual effective date of exceptions

Purpose of Chapter(s)

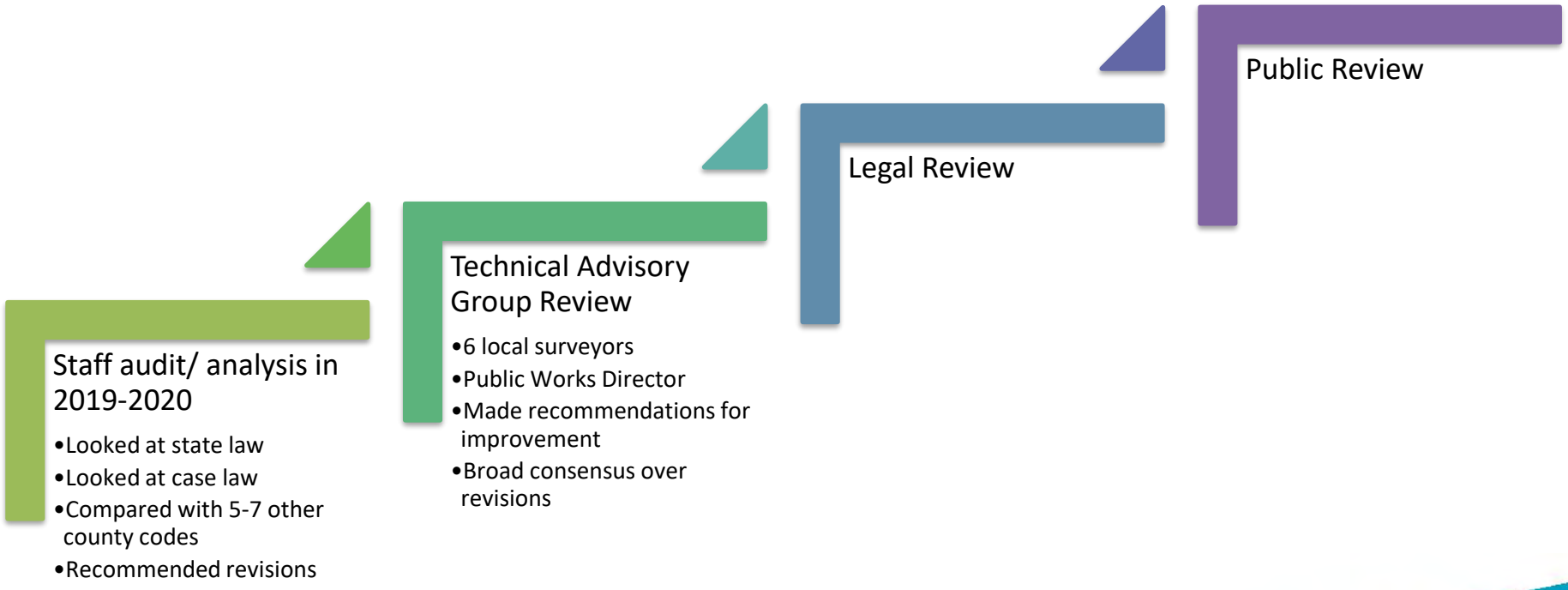
- Ensure land divisions meet state law requirements
- Coordinate with surveyors on process
- Define a process for land division permitting
- Make road standards consistent with fire safety standards and general best practices

Reasons for Update

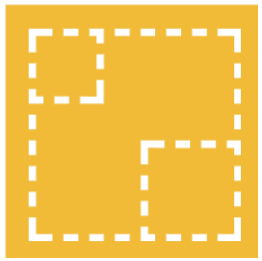
- Surveyors have identified conflicts with state law for over a decade
- Improve word choice to make uniform with state law
- Streamline process for efficiency, more flexibility in timelines



Revision Process



Revision Summary: Chapter 21



- Consistently use “unit of land” as default term
- Updated state law and other references
- Maintenance agreements for public open space
- Preliminary title report at the time of application
- Extension for preliminary plats
- Increase development phasing timelines
- Referred directly to state law for monumentation/other surveyor directed actions
- Decouple replats and property line adjustments. Replats now follow their origin process (partition/subdivision) Make language clear and objective, remove discretionary criteria

Revision Summary: Chapter 22

- New Chapter for Road Standards
- Align with Fire Safety Standards (Chapter 10)
- Remove Public Works responsibility for signage, as no longer have this resource
- Waiver of remonstrance consistent with Wasco County 2040
- Changed title of Public Works Director, other reference corrections
- Added criteria to be consistent with state law



AGENDA ITEM

Wasco County NSA Land Use & Development Ordinance Hearing

- STAFF REPORT – LEGISLATIVE REQUEST TO AMEND NSA LUDO
- WASCO COUNTY NSA LUDO UPDATE
- MEASURE 56 NOTICE
- WASCO COUNTY ORDINANCE 21-003
- STAFF PRESENTATION

PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • **f:** [541] 506-2561 • www.co.wasco.or.us

Pioneering pathways to prosperity.

WASCO COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA PACKET

FOR

Hearing Date: October 20, 2021

Hearing Time: 9:30 am

Hearing Location: Electronically via Zoom
Meeting ID: 395 773 4524#

HEARING #1 DETAILS: File # 921-21-000088-PLNG - an update to the National Scenic Area Land Use and Development Ordinance based on Columbia River Gorge Commission Gorge 2020 updates to the Management Plan

PLANNING DEPARTMENT

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MEMORANDUM TABLE OF CONTENTS

Date: October 7, 2021
To: Wasco County Board of County Commissioners
From: Wasco County Planning Office
Subject: Submittal for hearing dated October 20, 2021
Re: **National Scenic Area Land Use and Development Ordinance Update**

Item	Page
Staff Report #921-21-000088 – Legislative Request to Amend NSA LUDO	BOCC 1 - 1
Wasco County NSA LUDO Update Draft Cover Sheet - Attachment A	BOCC 1 - 16
National Scenic Area Land Use and Development Ordinance – Attachment B	BOCC 1 - 17
NSA LUDO Update Measure 56 Public Notice – Attachment C	BOCC 1 - 565
Wasco County Ordinance 21-003	BOCC 1 - 567
Planning Department NSA LUDO Update PowerPoint Presentation	BOCC 1 - 569

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FILE #: 921-21-000088

REQUEST: **Legislative Request to Amend the National Scenic Area Land Use and Development Ordinance**

DECISION:

Attachments:

A. DRAFT COVER SHEET

B. PROPOSED NSA LUDO

C. MEASURE 56 NOTICE

D. COMMENTS

File Number:	921-21-000088
Request:	Amend the Wasco County National Scenic Area Land Use and Development Ordinance 1. Mandatory updates based on Gorge 2020 updates to the National Scenic Area Management Plan
Prepared by:	Kelly Howsley Glover, Long Range Planner Isaak Staats, Long Range Assistant Planner
Prepared for:	Wasco County Planning Commission
Applicant:	Wasco County Planning Department
Staff Recommendation:	Recommend the Wasco County Planning Commission recommend adoption of the proposed amendments of the Wasco County National Scenic Area Land Use and Development Ordinance to the Wasco County Board of Commissioners
Planning Commission Hearing Date:	September 7th, 2021
Board of County Commissioner Hearing Dates:	October 20th, November 3rd
Procedure Type:	Legislative
Attachments:	Attachment A: Draft Cover Sheet Attachment B: Full NSA LUDO Draft Attachment C: Measure 56 Notice Attachment D: Comments

1. APPLICABLE CRITERIA LIST

Wasco County NSA LUDO

A. Section 2.100 (C) – Notice Requirements (Type IV – Legislative Hearing Notice)

B. Section 9.010 – Gorge Commission

C. Section 9.040 – Transportation Planning Rule Compliance

D. Section 9.070 - Recommendation on Zone Change or Amendment to the LUDO

E. Section 9.080 - Notice of Planning Commission Recommendation

F. Section 9.090 - Action by County Governing Body

G. ORS 197.610 - Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

H. ORS 197.612 - Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule

I. ORS 197.615 - Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development

J. NSA Management Plan Part IV, Chapter 1, Section 6 – County Ordinances

2. SUBMITTED COMMENTS (Attachment D)

Department of State Lands
Friends of the Gorge

3. PUBLIC INVOLVEMENT

In addition to the public hearings required by this legislative process to allow for public testimony and the ability to provide written comment, Wasco County has included the following additional measures to ensure the process is open to the public:

A. Newspaper Notifications

Planning Commission Hearing September 7, 2021:
Public notice for a Planning Commission hearing was published in *The Dalles Chronicle* on August 18, 2021 20 days prior to the September 7 hearing.

Board of County Commissioners Hearing October 20, 2021:
Public notice for a Planning Commission hearing was published in *Columbia Gorge News* on October 13, 2021 7 days prior to the October 20, 2021 hearing.

B. Mailed Notice

On August 16, 2021, a mailed notice was sent to all residents in the Wasco County National Scenic Area, in accordance with ORS 215.503. The language included that required by ORS 215.503, as well as highlighting critical updates that could impact the value or use of property.

The notice is attached to the packet as Attachment C.

C. Information Available on Website

The information regarding the proposed amendments was placed on the Wasco County Planning Department Website[1] starting in May 2021. If updates are made following each hearing, the webpage will be updated to reflect such changes. At the time of publication of this document, the following information was made available to the public:

- A listing of hearing dates, times and locations
- Drafts of the proposed amendments
- Staff report describing the process and proposed changes
- A way to submit comments and concerns

D. Notification to Partners

An email notification of proposed amendments was sent to identified partners and interested parties on August 31, 2021. The notification included links to the staff report, proposed amendments, and the opportunity to comment.

4. FINDINGS

A. *LUDO Section 2.100 – Notice Requirements*

C. Legislative Hearing Notice

1. *Planning Commission 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 Indian tribal governments*

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

(3) *State Historic Preservation Office*

(4) *Historic Columbia River Highway Advisory Committee*

[1] http://co.wasco.or.us/departments/planning/index.php

(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,*

(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.*

FINDING: Notice was sent to public agencies, local jurisdictions, and those who have requested notice on August 31, 2021. Staff received no comments at the time of preparation of this report.

The proposal does not include a new transportation facility or improvement. Staff finds this criterion has been met.

SECTION 9.010 Gorge Commission

All zone changes shall first require an amendment to the Management Plan by the Gorge Commission. Upon receipt of an application for a zone change, the Gorge Commission shall schedule a hearing on the matter and take such action as may appear appropriate to that body. Amendments to the Management Plan shall be conducted by the Gorge Commission as specified in Section 9.100, Amendment of the Management Plan.

Upon final approval of the zone change by the Gorge Commission and concurrence by the Secretary of Agriculture, the zone change shall be reviewed by the County pursuant to those procedures set out in Sections 9.020, 9.030, 9.040, 9.060, 9.070 and 9.080.

FINDING: The request includes no zone changes. All the proposed revisions were part of the Gorge 2020 Management Plan Update, and are required to be incorporated into the Wasco County National Scenic Area Land Use and Development Ordinance.

SECTION 9.040 Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, when initiated by the County or by a private interest, shall include a transportation analysis concurrently with the application. The application shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

2. Change standards implementing a functional classification system; or

3. As measured at the end of the planning period identified in the adopted transportation system plan:

a. Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

b. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

c. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: The proposed amendments do not include a change to the functional classification of an existing or planned transportation facility, changes to standards implementing a functional classification system, allow for land uses or developments that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility, reduce the performance of an existing or planned transportation facility below minimum acceptable performance standards in the TSP, or worsen the performance of an existing or planned transportation facility.
Staff finds these criteria are not applicable.

SECTION 9.070 Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance

After the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Planning Director or his/her assistants shall reduce to writing the Planning Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

SECTION 9.080 Notice of Planning Commission Recommendation

Within ten (10) days of the Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: The Planning Commission voted 5 to 1 to recommend adoption to the Board of County Commissioners the proposed revisions. On September 8, 2021, the Planning Director issued a brief statement of facts and reasons for the recommendation, as well as a summary of the recommendation and procedure and emailed or mailed it to participants.

Planning Commissioners expressed concerns about the following updates: urban growth boundary expansion cap; removal of cottage industries and the potential impact to small scale production businesses that would not qualify as home occupations; and requirements to demonstrate water availability for new farm production. Planning Commissioners requested the record reflect that there is a definite difference between cottage industries and home occupations, and that there is significant concern that merging the two will have a negative impact on cottage industries.

SECTION 9.090 Action by County Governing Body

Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Court act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

FINDING: The Board of County Commissioners is scheduled to hear the proposed Land Use and Development Ordinance amendments on October 20, 2021, 42 days after the Planning Commission hearing. The Notice of Planning Commission Recommendation was emailed on Wednesday, September 8th, one day after the hearing. Staff finds this criterion will be met.

B. ***ORS 197.610 - Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development***

Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.

(3) Submission of the proposed change must include all of the following materials:

(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;

(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;

(d) The date set for the first evidentiary hearing;

(e) The form of notice or a draft of the notice to be provided under ORS 197.763 (Conduct of local quasi-judicial land use hearings), if applicable; and

(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.

(4) The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:

(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and

(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.

(5) When a local government determines that the land use statutes, statewide land use planning goals and administrative rules of the commission that implement either the statutes or the goals do not apply to a proposed change to the acknowledged comprehensive plan and the land use regulations, submission of the proposed change under this section is not required.

(6) If, after submitting the materials described in subsection (3) of this section, the proposed change is altered to such an extent that the materials submitted no longer reasonably describe the proposed change, the local government must notify the Department of Land Conservation and Development of the alterations to the proposed change and provide a summary of the alterations along with any alterations to the proposed text or map to the director at least 10 days before the final evidentiary hearing on the proposal. The director shall cause notice of the alterations to be given in the manner described in subsection (4) of this section. Circumstances requiring resubmission of a proposed change may include, but are not limited to, a change in the principal uses allowed under the proposed change or a significant change in the location at which the principal uses would be allowed, limited or prohibited.

FINDING: The required Form 1 was submitted on August 3, via PAPA Online, 35 days before the first evidentiary hearing on September 7th. The form was submitted with the following materials: text of the proposed changes in the National Scenic Area Land Use and Development Ordinance, a brief narrative of the proposed changes, the date set for the first evidentiary hearing, the notice required by ORS 197.763 and a copy of the notice required by ORS 215.503, and a copy of the draft staff report.

Notice was provided to all property owners within the Wasco County National Scenic Area via mail, commensurate with ORS 215.503. Email notification was made on August 31, 2021 to all partners and other stakeholders on a mailing list, as well as posted on the Wasco County website.

Because the changes are all required by the Columbia River Gorge Commission as a result of their Gorge 2020 updates to the National Scenic Area Management Plan, staff will not modify the proposed changes that would necessitate additional notification to DLCD.

Staff finds all criteria have been met.

C. ***ORS 197.612 - Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule***

Notwithstanding contrary provisions of state and local law, a local government that proposes a change to an acknowledged comprehensive plan or a land use regulation solely for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal or rule of the Land Conservation and Development Commission implementing the statutes or goals may take action to change the comprehensive plan or the land use regulation without holding a public hearing if:

(a) The local government gives notice to the Department of Land Conservation and Development of the proposed change in the manner provided by ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development) and 197.615 (Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development); and

(b) The department confirms in writing that the only effect of the proposed change is to conform the comprehensive plan or the land use regulations to the new requirements.

(2) Notwithstanding the requirement under ORS 197.830 (Review procedures) (2) that a person must have appeared before the local government orally or in writing, a person that has not appeared may petition for review of the decision under subsection (1) of this section solely to determine whether the only effect of the local decision is to conform the comprehensive plan or the land use regulation to the new requirements. [2011 c.280 §6]

FINDING: Staff confirmed, via email on June 22, 2021, with DLCD Community Services Division Manager Gordon Howard that, although the proposed amendments are required by the National Scenic Act and the Columbia River Gorge Commission, that "ORS 215.503 doesn't include an exemption for implementation measures required by a federal entity" and necessitated a countywide notice. This triggered the requirement to hold a public hearing for the adoption of these mandatory changes,

despite the only effect of proposed changes being to conform the land use regulations to new requirements.

Staff finds the criteria are not applicable.

D. ***ORS 197.615 - Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development***

When a local government adopts a proposed change to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the decision to the Director of the Department of Land Conservation and Development within 20 days after making the decision.

(2) The submission must contain the following materials:

(a) A copy of the signed decision, the findings and the text of the change to the comprehensive plan or land use regulation;

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;

(c) A brief narrative summary of the decision, including a summary of substantive differences from the proposed change submitted under ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development) and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the actual change; and

(d) A statement by the individual transmitting the submission, identifying the date of the decision and the date of the submission.

(3) The director shall cause notice of the decision and an explanation of the requirements for appealing the land use decision under ORS 197.830 (Review procedures) to 197.845 (Stay of decision being reviewed) to be provided to:

(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and

(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.

(4) On the same day the local government submits the decision to the director, the local government shall mail, or otherwise deliver, notice to persons that:

(a) Participated in the local government proceedings that led to the decision to adopt the change to the acknowledged comprehensive plan or the land use regulation; and

(b) Requested in writing that the local government give notice of the change to the acknowledged comprehensive plan or the land use regulation.

(5) The notice required by subsection (4) of this section must state how and where the materials described in subsection (2) of this section may be obtained and must:

(a) Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;

(b) List the locations and times at which the public may review the decision and findings; and

(c) Explain the requirements for appealing the land use decision under ORS 197.830 (Review procedures) to 197.845 (Stay of decision being reviewed). [1981 c.748 §5; 1983 c.827 §9; 1999 c.255 §1; 2011 c.280 §2]

FINDING: This finding is pending completion of the legislative process.

NSA Management Plan Part IV, Chapter 1, Section 6 – County Ordinances
COUNTY ORDINANCES
Policies

1. Counties may adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural, and recreation resources of the Scenic Area. Notwithstanding the designation policies in Part II of the Management Plan, the Gorge Commission shall, upon request from a local government, apply a more restrictive designation.

2. A county and a city may enter into an agreement to allow the other to implement a land use ordinance that applies to the city and that has been approved or adopted by the Gorge Commission under Section 8 of the Scenic Area Act.

3. Counties may grant variances to provisions in their land use ordinances that are not required by a policy or guideline in the Management Plan.

FINDING: All proposed revisions are mandatory and taken verbatim, or near verbatim, from Gorge 2020, the National Scenic Area Management Plan update. The proposed land ordinance is for unincorporated Wasco County and some portions of the urban area within The Dalles and Mosier.

All proposed changes are mandatory revisions and do not include any variances.

Staff finds the policies have been satisfied or are not applicable.

Attachment D – Discussion of Comments

On September 7th, following the Planning Commissioner hearing, the Friends of the Gorge submitted an email to the Planning Director with detailed comments.

Definitions and Scrivener Errors:

- **The definition of "agricultural building" is missing.**
- **In the definition of "Bed and Breakfast Inn", the word "transient" should be replaced with "travel."**
- **There is a stray comma after the first period in the definition of "Cultural Resource."**
- **In the definition of "development", the word "structure" should be plural.**
- **In the definition of "Exploration, Development (extraction and excavation) and Production of Mineral Resources", the first "to" should be changed to"and."**
- **In the definition of "Multi-family dwelling", the word "dwelling" should be added before the word "units."**
- **"Pre-existing" should include the revised Management Plan ("RMP") language clarifying that it refers to the first Management Plan adopted on October 15, 1991.**
- **The definition of "Viewshed" appears to be included twice.**
- **The definition of "Visual Quality Objective (VQO)" is not included in the RMP and is not used in the NSA-LUDO. It can be removed.**

• The words "on site" should be added after "lawful" in NSA-LUDO § 20.300.A.

• The word "Yakima" should be replaced with "Yakama" throughout the NSA-LUDO when referring to the Confederated Tribes and Bands of the Yakama Nation.

Other comments, which have been numbered for ease of reference:

1. **NSA-LUDO § 3.110.B.4.a should be clarified such that development must be outside not only the buffers for water resources, but also outside of the water resources themselves.**
2. **NSA-LUDO § 3.120 D.5.c.3 must indicate that the farm or ranch must produce the required annual agricultural income (not that it is merely capable of producing the amount).**
3. **NSA-LUDO § 3.120 D.23 must incorporate GMA Policies 4 and 5 for land divisions and replats.**
4. **NSA-LUDO § 3.120 E.10 must be changed to clarify that the use is only allowed in historic structures.**
5. **NSA-LUDO § 3.120The new language in the RMP related to lands suitable for agriculture must be added to the agricultural setbacks in G.3.**

NSA-LUDO § 3.130

6. **D.9.a.3.c must indicate that the farm or ranch must produce the required annual agricultural income (not that it is merely capable of producing the amount).**
7. **E.11 should indicate that the provisions in Chapter 20 apply to commercial events in the A-2 zone.**
8. **NSA-LUDO § 3.150.D.7.c.4 must indicate that the farm or ranch must produce the required annual agricultural income (not that it is merely capable of producing the amount).**
9. **NSA-LUDO § 3.160 D.13 should be removed as cluster developments are no longer an allowed use in the RMP. (This was already striken)**
10. **The language struck out in E.2.a should be restored to comport with the RMP. (This was updated to correct scrivener errors)**

11. **E.5 should be clarified to include the requirement that Bed and Breakfast Inns are only allowed on residential parcels designated for 5 or 10 acre minimums.**
12. **NSA-LUDO § 3.170.E.5.d.4 should be removed since agricultural labor housing is not allowed in this land use designation.**
13. **NSA-LUDO § 3.180.B.1 should be clarified to indicate that expansions of existing structures are not permitted without review.**
14. **NSA-LUDO § 10.300 does not reflect the new language in the RMP. This section should be revised to accurately reflect the new provisions.**
15. **NSA-LUDO § 14.400.C.2.a should be updated with the new language referencing the landscaping species in the Scenic Implementation Handbook.**
16. **NSA-LUDO § 14.600 To reduce confusion and to more closely match the RMP, wetlands and other water resources should be consolidated as they are in the RMP.**
17. **A.4.a should be updated with the new language in the RMP: "The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (this does not include private road and driveways), if such actions would not. . . ." (The new language was actually added as "d". The section included by a was not modified as suggested by FOG)**
18. **A.6.a should be updated with the new RMP language: "Practicable alternatives for locating the structure outside of the water resource or buffer zone do not exist." (This was included in section 5. 6 is matched to the section "Approval Criteria for Modifications to Serviceable Structures in RMP)**
19. **A.6.c should be updated with the new RMP language (including removing the provision that wetlands could be destroyed) and it should include, of the seven measures to consider for new development and uses, the measures applicable to wetlands.**
20. **The words "or destroyed" should be removed from A.6.h.5.**
21. **B.4.a should be updated with the new RMP language: "Practicable alternatives for locating the structure outside of the water resource or buffer zone do not exist."**
22. **B.4.b should be updated with the new RMP language: "All reasonable measures have been applied to ensure that the structure will result in the minimum alteration or degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology."**
23. **The following RMP language should be added to the "Wildlife Habitat" section: "Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists, a wildlife survey and mitigation plan shall be required. This criteria shall not apply to forest practices that are otherwise allowed and that do not violate conditions of approval for other approved uses."**
24. **"Low intensity, non-destructive uses may be conditionally authorized in the core habitat." should be removed from C.5.f.1.**
25. **"Winter Range" should be added to the Priority Habitats Table.**

Findings: All the definition corrections have been made, with the exception of the removal of Visual Quality Objective. Staff is only addressing mandatory updates related to the Gorge 2020 Management Plan update at this time, and will make a notation about this for future, optional updates. Scrivener edits were noted and addressed.

Staff have addressed through revisions, the following points: 6-11, 13, 15, 20-25. Many of these were scrivener errors resulting from a complex update.

Number 12 item on the Friends of the Gorge letter is to remove agricultural labor housing from the "public recreation" zoning. This was not a change made during the Gorge 2020 Management Plan update. As indicated, staff is only addressing mandatory updates related to the Gorge 2020 Management Plan update at this time, and will make a notation about this for future, optional updates.

14 states that the Mineral and Aggregate section of Chapter 10 does not reflect updates. However, staff finds that this section is updated consistent with the Revised Management Plan, albeit formatted differently. The additional rules in 10.300.A.2 are Oregon State rules that are over and above NSA requirements and allowed. Therefore, no change is needed.

Under number 16, the Friends of the Gorge comment that Wasco County should revise sections related to wetlands, aquatic, stream, ponds, lakes etc. should be condensed, as the Columbia River Gorge Commission has done, into "water resources". However, staff analyzed this proposal in depth when updating the National Scenic Area LUDO and found that it was problematic for the following reasons. First, there are section of the criteria or regulations that remain different between wetlands and other water resources. Merging the two categories of water resources is potentially confusing for residents and staff. Keeping them separate has no impact on the regulation, but increases the transparency for some of those nuanced differences. Second, keeping these resources separate is consistent with Goal 5 of the Oregon Statewide Land Use Planning program that treat riparian areas and wetlands as separate resources. When allowed, Wasco County has elected to keep the two programs we implement (National Scenic Area and non-National Scenic Area) as closely matched as possible for ease of use and application. This update, as its non-substantive, is not necessary to continue to implement the intent of the regulation or criteria.

Number 17 on the Friends of the Gorge list is :"A.6.a should be updated with the new RMP language: "Practicable alternatives for locating the structure outside of the water resource or buffer zone do not exist." This language was included in section 5, and is accurately mapped to the update.

Finally, for number 19 on the comment list, staff removed the word destroyed, however, notes that the updates referenced in the other portion of this comment were added in under 5, and that adding it to the recommended section would be incorrect.

On September 8th, Jevra Brown of the Oregon Department of State Lands submitted an email to the Planning Director with detailed comments that included:

- **Scrivener errors**
- **Details related to the Statewide Wetlands Inventory, process for delineation of a wetlands boundary, recommendations for deed restrictions or compensation for sites, and other specific comments related to wetlands.**

Findings: The duplicate definition of Natural Resource Based Recreation has been removed. Spelling corrections have been made. The word "or" has been corrected to "of" within the definition of wetland.

Staff has also corrected any references to the Statewide Wetlands Inventory.

Ms. Brown makes the comment that the referenced 1987 Manual is "no longer sufficient to delineate wetlands and is mostly, not entirely, obsolete." Staff has added, per advice and language in the revised Management Plan, reference to regional supplements. However, the Manual is preserved in the revised Management Plan as the primary reference. While we recognize DSL's expertise, Wasco County does not have the ability to strike this reference while it remains in the Management Plan.

The language related to delineations was not revised in the Management Plan. Staff is not currently undertaking any revisions to the National Scenic Area Land Use and Development Ordinance outside the mandatory scope of the Management Plan update. Staff will make note of these proposed revisions for evaluation with a future update for optional revisions. This is similar to DSL's input about timelines related to DSL and Army Corp permitting. Staff will make note of this information for potential update.

Ms. Brown also provides commentary related to wetland compensation plans. Beyond the required amendments to language, staff has not engaged the public to understand operationalization of the required written plan. Staff will take note of DSL's recommendation for a future update.

Ms. Brown questions the buffer measurements from ordinary high water mark and normal pool elevations that differs throughout the criteria. This update is only addressing mandatory updates. Many of these buffer related calculations are proscribed by the Management Plan. Staff encourages DSL to share this feedback with the Columbia River Gorge Commission directly for future revision of the Management Plan.

Ms Brown addresses provisions related to emergency permits. Staff will make a notation for possible inclusion in a future update, as this was not addressed during Gorge 2020 update, but also encourages DSL to share this feedback directly with the Columbia River Gorge Commission directly for future revision of the Management Plan.

Finally, Ms. Brown asks a question related to functional assessment methods. Staff is only addressing mandatory updates with these amendments, however will note these comments for potential inclusion in the scope to make optional updates to the National Scenic Area Land Use and Development Ordinance.

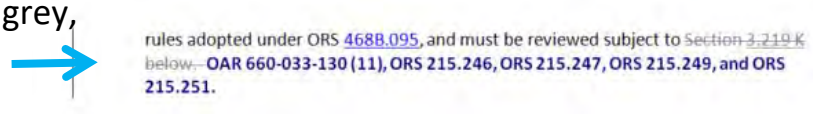
Wasco County National Scenic Area Land Use and Development Ordinance Update Draft Cover Sheet



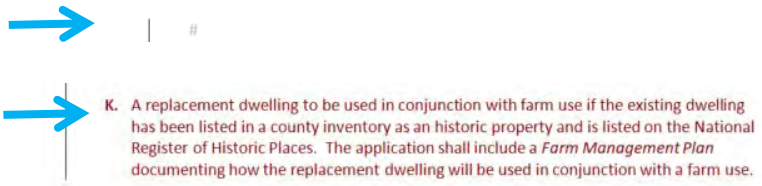
The drafts are created using track changes in Microsoft Word.

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

The bold, blue text shows new text.
Text with a line through it, in light grey, is proposed to be deleted.



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



All updates are mandatory and taken verbatim, or near verbatim, from the updated Columbia River Gorge National Scenic Area Management Plan.

NATIONAL SCENIC AREA

LAND USE AND DEVELOPMENT

ORDINANCE

(NSA-LUDO)

for

Wasco County

Oregon

NATIONAL SCENIC AREA

LAND USE AND DEVELOPMENT ORDINANCE

ADOPTED
May 1994

EFFECTIVE
July 1994
GMA - 3 October 2005– SMA - 10 January 2006
9 December 2006
25 July 2007
18 May 2010
19 August 2010
GMA – 12 June 2018– SMA - 5 September 2018

Prepared by the

WASCO COUNTY PLANNING & DEVELOPMENT OFFICE

NSA-LUDO

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NSA-LUDO

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CHAPTER 1 INTRODUCTORY PROVISIONS

SECTION 1.010 Authority

This Ordinance is enacted pursuant to the provisions of Oregon Revised Statutes Chapters 92, 197, 203, and 215, and Public Law 99-663, Section 7.

SECTION 1.020 Title

This Ordinance shall be known as the National Scenic Area Land Use and Development Ordinance for Wasco County.

SECTION 1.030 Purpose

The purposes of this Ordinance are: To promote public health, safety, convenience, and general welfare; to reduce congestion upon the streets and highways; to prevent excessive population density and the overcrowding of land; to provide for adequate air and light; to conserve natural resources and encourage the orderly growth of the County; to promote safety from fire and natural disaster; to assist in rendering adequate police and fire protection; to facilitate adequate and economic provision for public improvements, for recreation areas, and for public utilities and services; to conserve, stabilize, and protect property values; and to encourage the most appropriate use of land, all in accordance with the Comprehensive Plan for Wasco County and the Management Plan for the Columbia River Gorge National Scenic Area.

SECTION 1.040 Severability

The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of this Ordinance. The Director, the Director's designee or other Approving Authority shall not approve a development or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the applicant or created the violation, unless the violation can be rectified as part of the development proposal.

SECTION 1.050 Repeal

The following ordinances, together with all amendments thereto are hereby repealed:

"Wasco County Zoning Ordinance", adopted February 3, 1982.
"Wasco County Subdivision and Land Development Ordinance", adopted February 3, 1982. "Wasco County Mobile Home and Recreational Vehicle Park Ordinance".
"Wasco County Land Use and Development Ordinance adopted June 1985, amended July 19, 1989" only for that portion of Wasco County within the Columbia River Gorge National Scenic Area as depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area", numbered NSA-001, sheet 1 and 2, and dated September 1986.
“Wasco County National Scenic Area Land Use and Development Ordinance”, adopted May 1994, Revised July 1994.

SECTION 1.060 Effective Date

This Ordinance shall become effective when the final draft, approved by the Gorge Commission and the Secretary of Agriculture, is reviewed and approved by the Wasco County Board of Commissioners and filed with the Wasco County Clerk. Amendments hereto, unless otherwise specified, shall become effective when filed with the County Clerk.

SECTION 1.070 Interpretation and Scope

Interpretation: The provisions of this Ordinance shall be liberally construed to effect the purpose. These provisions are declared to be the minimum requirements to fulfill objectives. When conditions herein imposed are less restrictive than comparative provisions imposed by any other provision of this Ordinance by resolution of State Law or State Administration regulations, or Management Plan Guidelines, then the more restrictive shall govern.

Scope: This Ordinance is enacted to regulate and restrict the location and use of buildings, structures, and land for residence, trade, industry, and other land use activities; to regulate and limit the height, number of stories, and size of buildings and other structures hereafter erected or altered; to regulate and limit the density of population and to divide Wasco County into districts or zones of such number, shape and area as may be deemed best to carry out these regulations and to provide for the enforcement of these regulations.

SECTION 1.080 Compliance Required

No structure or premises in the Columbia River Gorge National Scenic Area portion of Wasco County shall hereafter be used or occupied and no part or structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance.

A. This Ordinance shall protect treaty and other rights of Indian tribes. Nothing in this Ordinance may interfere with the exercise of those rights.

B. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes, shall be exempt from regulation under the Management Plan or this Ordinance. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" fishing sites pursuant to Public Law 11-581 before or after the effective date of the Management Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

C. Rights to surface or ground water shall be exempt from regulation under the Management Plan or this Ordinance.

D. Water transportation activities, including those facilities necessary for navigation, on the Columbia River or its tributaries shall be exempt from regulation under the Management Plan or this Ordinance.

E. The operation, maintenance, and modification of existing transmission facilities of the Bonneville Power Administration shall be exempt from regulation under the Management Plan or this Ordinance.

F. Neither the Management Plan nor this Ordinance may affect laws, rules or regulations pertaining to hunting or fishing.

G. This Ordinance shall not establish any buffer zone or protective perimeters outside the boundaries of the Scenic Area.

H. The operation, maintenance, and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the off-site disposal of excavation material, shall be exempt from regulation under the Management Plan or this Ordinance.

I. In the GMA, the rights and responsibilities of non-federal timber landowners under the Forest Practices Acts of Oregon, shall be exempt from regulation under the Management Plan or this Ordinance.

SECTION 1.090 Special Rule (SMA Only)

Parcels in the SMA with a GMA designation result from the Section 8(o) process whereby the Forest Service designated properties as either GMA Forest Land or GMA Agriculture Land guidelines or designation.

SECTION 1.100 Editorial Revision

Editorial revision will be in compliance with the following procedures. The District Attorney may at any time direct such changes regarding currently maintained copies of this Ordinance and amendments as the Legislative Council is authorized to perform regarding acts of the Legislature, pursuant to Oregon Revised Statute 173.160, provided that such editorial revisions be directed by written memorandum filed with the County Clerk and with the Planning Department, but subject to disapproval by the Planning Commission at next regular meeting thereafter. Editorial revisions shall become effective, unless disapproved by the Planning Commission, on the first regular meeting of the Planning Commission after the directing memorandum is filed with the County Clerk. All such revisions must be submitted to the Gorge Commission and Forest Service for approval prior to becoming effective.

SECTION 1.200 Definitions

For the purpose of this Ordinance, certain words and terms are defined as follows: Words used in the present tense include the future; words in the singular number include the plural, and words in the plural include the singular.

Abandoned WECS - A WECS that does not generate energy during a period of twelve (12) consecutive months for reasons other than lack of wind, lack of demand for the electricity produced, repair, or modernization.

Accepted Agricultural Practice - A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

Access - A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property. Includes driveways and private accesses.

Access easement - An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public or private road to a parcel across intervening property under separate ownership from the parcel being provided access. See Private Easement Road.

Accessible – In compliance with the Federal accessibility guidelines and standards. Accessible sites and facilities do not contain barriers limiting their use by people with disabilities.

Accessory renewable energy system - A system accessory to a primary structure or allowed use on the parcel that converts energy into a usable form such as electricity or heat and conveys that energy to the allowed structure or use. An Accessory Renewable Energy System is a solar thermal, photovoltaic, or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the primary use on the subject parcel.

Accessory structure/building - A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

Accessory Use - A use customarily incidental and subordinate to the primary use and located on the same legal parcel.

Active Wildlife Site - A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

Addition - An extension or increase in the area or height of an existing building.

Adversely affect or Adversely affecting – A reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on-

(1) The context of a proposed action;

(2) The intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(3) The relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(4) Proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.

Agency Official - The federal, state, or local agency head or designee who has authority over a proposed project.

Agricultural building: A building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses and processing facilities.

Agricultural Land - Means lands classified by the US Natural Resource Conservation Service as predominantly Class I-VI in Eastern Oregon; land in other soil classes that is suitable for farm use as defined in ORS 215.203 taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands; and land in capability classes other than I - VI that is adjacent to or intermingled with lands in capability classes I - VI within a farm unit shall be inventoried as agricultural lands even though this land may not be cropped or grazed. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

Agricultural Purposes - The predominant and gainful use of land for the following purposes: the growing of hay, grain, seed, row crops, horticultural crops, livestock, poultry and produce.

Agricultural specialist (SMA) - A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

Agricultural structure~~**/building**~~ - A structure **(not including buildings)** ~~or building~~ located on a farm or ranch and used in the operation **of the farm or ranch**~~for the storage, repair and maintenance of farm equipment, and supplies or for the raising and/or storage of crops and livestock~~. These include, but are not limited to: ~~Barns, silos, workshops, equipment sheds, greenhouses,~~ wind machines (orchards), ~~processing facilities,~~ storage bins**, fences, trellises, and irrigation systems.** ~~and structures.~~

Agricultural Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling of crops or by the feeding, breeding, management and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use, or animal husbandry or any combination thereof, including Christmas trees, as defined by ORS 215.203(3). Current employment of land for agricultural use includes:

a. The operation or use of farmland subject to any agriculture-related government program;

b. Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry;

c. Land planted in orchards or other perennial prior to maturity; and

d. Land under buildings supporting accepted agricultural practices. Current employment does not include livestock feed lots.

Agricultural use does not include livestock feedlots.

Air – The mixture of gases comprising the Earth's atmosphere.

All Weather Road - A road that has, depending upon design criteria, a six [to eight] or more inches of gravel base, smooth surface, that a two wheel drive vehicle can use all year round. Confirmation of "all weather" to be made by the Wasco County Public Works Department.

Alley - A secondary means of access to abutting property, if dedicated as a public way.

Altered - A change, addition, or modification in structure; where the term "altered" is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another, or from one division or use to another.

Anadromous fish - Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

Anaerobic - A condition in which molecular oxygen is absent (or effectively so) from the environment.

Apartment - A building or portion thereof designed for residential use and containing three or more dwelling units.

Apartment House - Three or more household units with walls or ceilings common to another unit.

Approach Road – That portion of any access, driveway or other facility that immediately abuts upon a public or county road and provides ingress to or egress from said public or county road.

Approving Authority - The County Governing Body or the body designated by the County Governing Body to administer all or part of this ordinance.

Arterial Road or Street - A road or street used primarily. to carry high levels of regional vehicular traffic at high speeds; connects the collector road system to freeways; provides connection to other cities and communities; serves major traffic movements; access control may be provided through medians and/or channelization. The typical average daily traffic exceeds 2,000.

Aquaculture - The cultivation, maintenance and harvesting of aquatic species.

Aquatic area - The water area of a stream, pond, or lake measured at the ordinary high water mark.

Archaeological resources - See cultural resource.

Archival research - Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

Automobile and Trailer Sales Area - An open area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed, sold or rented on the premises.

Automobile Repair Garage - A building or portion thereof used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

Automobile Service Station - Any premises used for supplying gasoline, oil, minor accessories, and services, excluding body and fender repair for automobiles at retail direct to the customer.

Automobile Wrecking Yard - Any property where more than two vehicles, including Recreational Vehicles not licensed or operable, or parts thereof, are: wrecked, dismantled, disassembled, or substantially altered and are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof for a period exceeding three (3) months in any non-consecutive 12 month period.

Awning - An awning is defined as any accessory shade structure supported by posts or columns and partially supported by a mobile home.

Background - One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Background is represented in the space from four miles to the horizon.

Basement - A portion of a building, partly underground, which is less than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground, and not deemed a story unless the ceiling is six (6) feet or more above the ground.

Batch Plant, Concrete or Asphalt - Means the storage, preparation, and manufacturing of concrete or asphalt including customary equipment and accessory buildings. Also called Redi-Mix plant.

Bed and Breakfast Inn - A single-family dwelling where lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. Rooms shall be rented on a daily basis. An establishment where more than one (1) meal per day is offered shall not be deemed a bed and breakfast inn. An establishment with more than five (5) sleeping rooms shall be deemed a hotel. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as **traveler**~~transient~~ accommodations, not as rooming or boarding houses.

Best M~~m~~anagement P~~p~~ractices (BMPs) - Conservation techniques and management measures that:

a. control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; and

b. minimize adverse effects to groundwater and surface-water flow and circulation patterns; and

c. maintain the chemical, biological, and physical characteristics of wetlands, ponds, steams, and riparian areas.

Bikeway - Any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes.

Bike Lane - A defined portion of the roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

Bio-diversity (SMA) - A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

Blade - An element of a WECS rotor which forms an aerodynamic surface or surfaces to convert movement of air into mechanical energy or torque.

Block - An area of land within a subdivision which area may be entirely bounded by streets, highways or ways (except alleys), and the exterior boundary or boundaries of the subdivision.

Boarding House - A building or premise where meals and lodging are offered for compensation for three (3) or more persons but not more than nine (9) persons; and having no more than five (5) sleeping rooms for this purpose. An establishment where meals are served for compensation for more than nine (9) persons shall be deemed a restaurant. An establishment with more than five (5) sleeping rooms shall be deemed a hotel.

Boat Landing - Cleared area or developed structure used to facilitate launching or retrieving watercraft.

Buffer Zone - An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

Building - Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

Building Line - A line on a plat indicating the limit beyond which buildings or structures may not be erected.

Business - Employment of one or more persons for the purpose of earning a livelihood or a profit in money.

Cabana - A room enclosure erected or constructed adjacent to a mobile home for use as an addition to a mobile home.

Camp, Campground, Tourist, or Trailer Park - Any area or tract of land used or designed to accommodate two or more camping outfits, including cabins.

Camping or recreational vehicle - A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is (1) connected to a sewer system (including septic tank), water, and electrical lines, or (2) occupied on the same parcel for more than 60 days in any consecutive12-month period.

Campsite - Single camping unit, usually consisting of a cleared, level area for a tent, and may include a parking spur, fire ring, table and other amenities.

Canopy closure (SMA) - For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

Capability - The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure or other natural factors.

Carport - A covered shelter for an automobile open on two or more sides. A carport may be freestanding or partially supported by a dwelling unit or mobile home.

Cascadian Architecture - Architectural style using native rock work, large timber and steeply pitched roofs in a rustic manner.

Catastrophic Situations (SMA) - Forces such as fire, insect and disease infestations and earth movements.

Cellar - A story having more than one-half of its height below the average level of the adjoining ground and which has less than six (6) feet of its height above the average level of the adjoining ground.

Cemetery - Land dedicated for burial purposes, including mortuary, crematory, mausoleum, and columbarium, when operated within the boundary of the cemetery.

Child Care Center - A facility providing day care to three or more children, but not including:

a. The provision of care that is primarily educational unless provided to a preschool child for more than 4 hours a day;

b. The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion;

c. Provision of short term care associated with group or social activities.

d. The provision of day care in the provider's home in the family living quarters for less than 13 children.

Church - A building, together with its accessory buildings and uses, where persons regularly assemble for public worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Class I Stream - Waters which are valuable for domestic use, are important for angling or other recreation, and/or used by significant numbers of fish for spawning, rearing, or migration routes as designated by the

Oregon Department of Forestry. Stream flows may be perennial or intermittent.

Class II Stream - Any headwater streams or minor drainages that generally have limited or no direct value for angling or other recreation as designated by the Oregon Department of Forestry. They are used by only a few, if any, fish for spawning or rearing. Their principal value is their influence on water quality or quantity downstream in Class I waters. Stream flow may be perennial or intermittent.

Clinic - Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a pharmacy in any such building.

Club or Lodge - A building and facilities owned and operated for a social or recreational purpose, to which membership is required for participation, but is not operated primarily for profit or to render a service which is customarily carried on as a business. A club does not include a public rehabilitation facility of any kind.

Collector Road or Street (Major) - A road used primarily to serve traffic between neighborhoods and community facilities; principal carrier between arterials and local roads; provides some degree of access to adjacent properties, while maintaining circulation and mobility for all users; carries lower traffic volumes at slower speeds than arterials; typically has two or three lanes; bicycle facilities may be exclusive or shared roadways depending on traffic volumes, speeds, and extent of bicycle travel. The typical average daily traffic ranges from 500 to 2,000.

Collector Road or Street (Minor) - A road used primarily to connect rural residential areas with arterials and major collector roads; has slower speeds to enhance safety; bicycle facilities may be exclusive or shared roadways depending on traffic volumes, speeds, and extent of bicycle travel. The typical average daily traffic ranges from 250 to 400.

Columbia River Gorge National Scenic Area Graphic Signing System - Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

Columbia River treaty tribes – See definition for Indian tribes.

Commercial Development/Use - Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

Commercial event: An organized gathering at an allowed commercial development. Such events include weddings, receptions, indoor concerts, and farm dinners, and are incidental and subordinate to the primary use on a parcel.

Commercial Forest Products - These include timber for lumber, pulp, and fire wood for commercial purposes.

Commercial Recreation - Any private (non-governmental) recreational activity or facility on privately owned land, excluding non-profit facilities. This does not include operation of a public recreation facility by a private vendor.

Commercial Utility Facility - Any energy facility or commercial energy facility.

Common Area - Any area or space designed for joint use of tenants.

Communication Facility - A facility constructed for the purpose of transmitting telegraph, telephone, microwave, television, radio, and other similar signals.

Community Center or Hall - A building and facilities owned and operated by a governmental agency or non-profit community organization whose membership is open to any resident of the community in which the center or hall is located.

Community Facility - Basic utilities and services necessary to support public service needs, including, but not limited to water and power utilities, sanitation facilities, public micro-wave stations and communications facilities, schools, roads and highways. This does not include sanitary landfills.

Community Management - The person who owns or has charge, care or control of the mobile home development.

Community Sanitary-Sewer System - A public or private system of underground pipes of sufficient capacity to carry domestic sewage from an area to connected treatment and disposal facilities, as approved by the Oregon Department of Environmental Quality.

Community Water-Supply System - A public or private system of underground distribution pipes providing a continuous supply of potable water from a center source in quantities sufficient to meet domestic and fire protection needs for three (3) or more dwellings, as approved by the State of Oregon Department of Human Resources, Health Division.

Comprehensive Plan - The generalized, coordinated land use map and policy statement of the governing body of Wasco County that interrelates all functional and natural systems and activities relative to the use of lands including, but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs.

Condominium - Property, any part of which is residential in nature, submitted and approved in accordance with the provisions of ORS 100.005 to 100.910.

Conduit - Any tunnel, canal, pipeline, aqueduct, flume, ditch or similar man-made water conveyance.

Consultant Engineer - A professional engineer, registered in the State of Oregon, who is retained by and responsible to an applicant for the design and construction of subdivisions and required public or private improvements. Although a Civil Engineer is preferable, any engineer who is qualified to perform the work involved, and so certified, may be a consultant engineer.

Consulting Parties (cultural resources) - Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

Contiguous Land - Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations or are separated by public or private roads. Contiguous land does not include parcels which meet only at a single point.

Corner Lot - A lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent street does not exceed 135 degrees.

Corridor - The length and width of a right-of-way or tenancy containing or intended for a transmission facility and other uses in, or intended for, the same right-of-way.

County - The County of Wasco, Oregon.

County Governing Body - The County Governing Body of Wasco County, Oregon.

County Road - A public road which has been designated as a county road and formally accepted for maintenance by the Wasco County Governing Body. A county road shall not act as a dividing feature of a lot-of-record.

County Road District – For purposes of improving county roads or public roads within the boundaries of a city or drainage district, county road districts may be formed from contiguous territory within the county. All road improvements are initiated through a petition process approved by the County Governing Body. To fund the road improvements, county road districts may assess, levy and collect taxes on all taxable property within the district. See ORS 371.055.

Court - An open, unoccupied space, other than a yard, on the same lot with a building and bounded on two sides by such building.

Court Apartment - One to four multiple dwellings arranged around two or three sides of a court which opens into a street.

Cross Access - A service drive providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.

Created Opening - A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

Creation (wetlands) - A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

Cul-De-Sac - A street with only one outlet having sufficient space at the closed end to provide a vehicular turning area.

Cultivation - Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

Cultural Resource - ~~Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:~~ **The objects, features, sites and places that have meaning and significance for specific human groups and cultures. Cultural resources support the cohesive bonds of the communities that recognize and comprehend their significance. Cultural resources can be divided into four types: Archaeological**

Resources, Historic Buildings, Traditional Cultural Properties and Traditional Use Areas.

--Archaeological resources. ~~Physical evidence or ruins of human occupation or activity located on or below the surface of the ground that are at least 50 years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil making activities; and graves, human remains and associated artifacts.~~ **The artifacts and features left in the landscape of early American Indian activities and the historic activities of early settlers. Artifacts are human-manufactured items and the waste material from manufacture. Features are the human alterations in the landscape. Artifacts include arrowheads and the stone waste flakes from making them and historic cans, bottles, ceramics and wooden and metal objects left in dumps or scattered in the landscape. Features include human-made pits in talus slopes, stacked rocks, rock walls, blazed and scarred trees, ditches, railroad grades, wagon roads, cabin foundations and other human modifications of the natural landscape.**

--Historic buildings and structures. ~~Standing or above-ground buildings and structures that are at least 50 years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways and tunnels.~~ **Standing structures and their associated features. Often, they are still in use but can be abandoned and deteriorating. They are distinct from historic archaeological resources by being above ground and not collapsed to the level of the surrounding landscape.**

--Traditional cultural properties. ~~Locations, buildings, structures, and objects that are associated with cultural beliefs, customs or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.~~

~~Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees and rock outcrops.~~ **Monumental sites, sacred places, legendary areas, mythical locations, traditional gathering areas, and landscapes and landscape features that are identified by the specific communities that hold meaning for them. They maintain and perpetuate values and practices of the group that attach significance to them. They provide spiritual cohesion to the community.**

--Traditional Use Areas. Procurement and processing sites in the landscape for every kind of resource a society needs to perpetuate its specific culture. They are the sources for food, medicine, fibers and tools that provide subsistence for a specific group's culture.

Culturally significant foods - Natural resources used by Native Americans for subsistence, medicine and ceremony, including: water, fish, big game, roots, and berries.

Culturally significant plants and wildlife - Native plant and animal species essential to the culture of a Native American group.

Cumulative Effects - The combined effects of two or more activities. The effects may be related to the

number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Curb Line - The line dividing the roadway from the planting strip or footway.

Cut - an area where soil or earth are excavated or removed in conjunction with development activities.

Dam - Any man-made structure that impounds water.

Day Nursery - Any institution, establishment or place, other than a group day care home, in which are commonly received at one time, three or more children not of common parentage, under the age of six years, for a period or periods not exceeding twelve hours, for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.

Dedicated Site - Area actively devoted to the current use and as delineated on the site plan.

Deer and Elk Winter Range - Areas normally used, or capable of being used, by deer and elk from December through April.

Design - The description, either written or graphic, of any street or alley alignments, grade or width, alignment of width of easements and rights-of-way for drainage or irrigation purposes and sanitary facilities, and lot area, width or layout.

Destruction of Wetlands - Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

Developed Recreation - Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

Developed road prism (SMA) - The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

Development - Any land division~~, structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.~~**or new construction or modification of buildings, structures and roads, and any earth-moving activity, including, but not limited to, mining, dredging, filling, grading, paving and excavation.**

Developer - A subdivider, or if not creating a subdivision, a person who proposes to, or does develop the land, whether it be for public or private purposes.

Diameter at Breast Height (dbh) - Refers to the diameter of a tree as measured at breast height.

Distance zone - Distance zones (see Background, Middleground, and Foreground) are used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Generally, the closer a development is to the area it is being viewed from, the more attention will need to be given to

site placement, design features, and mitigations to ensure the development blends with the landscape

Diversion - Any structure that deflects a portion of the water from a stream channel.

Dock - A structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

Double Frontage Lot - A lot having frontage on two parallel or approximately parallel streets.

Drive-In - A business establishment so developed that its retail or service character is dependent on providing a driveway approach for parking space for motor vehicles so as to serve patrons while in the motor vehicle, or within a building on the same premises and devoted to the same purpose as the drive-in service.

The term drive-in shall include any business establishment dispensing food or drink on a self-service basis and for consumption outside the building.

Driveway - A private access providing ingress and egress to and from within a single property, or portion of a single property to a public road, private road or private easement road.

Driveway, Shared - When land uses on two or more lots or parcels share one driveway. A Private Easement Road must be created for any new shared driveway crossing another property.

Duplex - A building containing two dwelling units and designed for occupancy by two families.

Dwelling, Single Family - A detached building containing one dwelling unit and designed for occupancy by one family only.

Dwelling Unit - A single **self-contained** unit ~~designed for occupancy by one family and having not more than one cooking area or kitchen.~~ **with basic facility needs for day-to-day living. Facility needs include, but are not limited to, a food preparation area or kitchen, bedrooms, and a full bathroom.**

Earth materials - Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

Easement - A grant of the right to use a strip of land for specific purposes. Includes but is not limited to access easements and utility easements.

Effect on Treaty Rights - To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and ~~Yakima~~**Yakama** tribes, executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

Emergency/disaster - A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

Emergency/disaster response - Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

Endangered and Threatened Species - Those species of plants and animals listed or proposed for listing as of October 1, 1978, in 41 FED REG 24524. (June 16, 1976) and 50 CFR Part 17, and its amendments and species listed or proposed for listing by the State of Oregon.

Endemic - Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

The Management Plan for the Columbia River Gorge National Scenic Area lists Columbia Gorge and vicinity endemic plant species in Table 7.

Enhancement (natural and scenic resources) - A ~~human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.~~ **A human activity that increases or makes greater the value, desirability or attractiveness of one or more functions of an existing sensitive area. For riparian areas, such as wetlands, streams, and lakes, enhancement is generally limited to the area that is degraded. Enhancing a sensitive natural resource area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.**

Ephemeral streams (SMA) - streams that contain flowing water only during, and for a short duration after, precipitation events.

Equitable recreation - Development and services that are equally accessible and available to all people regardless of income level, ethnicity, gender, ability, or age.

Ethnography - The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

Existing Use or Structure - Any use or structure that was legally established **and that has continued to operate lawfully and has not been discontinued**. "Legally established" means:

a. the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; and

b. the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and

c. any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change

was established.

Expando - Room or rooms that fold, collapse, or telescope into a mobile home.

Exploration, Development (extraction and excavation) and Production of Mineral Resources - Includes all or any part of the process of surface, underground or submerged mining of mineral resources**, and transportation of mineral resources from the site**. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. This definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource **and** ~~to~~ transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

Family -

a. Any one of the following shall be considered a family when living together as a single housekeeping unit within a dwelling unit (excluding servants):

1. An individual or two or more persons related by blood, marriage, legal adoption, foster care or guardianship; or,

2. A group of not more than five (5) unrelated persons; or,

3. Residential Home - A residence for (5) or fewer unrelated mentally or physically handicapped persons and staff persons who need not be related to each other or any other home resident. A residential home must be approved as an Adult Care Home by the Wasco County Planning Department.

b. Each group described herein or portion thereof, shall be considered a separate family.

Family Hardship Dwelling - A mobile home or recreational vehicle used temporarily during a family hardship situation when an additional dwelling is allowed to house aged or infirm person or persons physically incapable of maintaining a complete separate residence apart from their family.

Farm Management Plan - Shall include information applicable to the specific farm use from the following list:

--proof that the parcel is enrolled in a farm deferral program with the Wasco County Assessor;

--written description of the current and/or proposed farm operation that identifies the number of acres of land in production, type and number of acres planted to a specific crop;

--the current and/or proposed number of animals grazing or being raised on the farm parcel;

--existing and/or proposed farm structures (including irrigation sprinklers) supporting the farm use and existing water rights.

--description of the existing and/or proposed number of employees, including owners, working the farm

parcel, and their responsibilities and the hours per week they will be principally engaged in the farm use.

--a map that shows the location of all current and/or proposed farm activities including but not limited to registered fields, grazing areas, areas dedicated to farm structures, acres and location of water rights (Farm Services Agency map); and

--a schedule of all proposed agricultural uses which shall be initiated within one year and complete within five years

Feedlot - See Livestock Feedlot.

Fence, Protective - A fence at least six feet tall designed to restrict passage through the fence. A protective fence includes stockade, woven wood, chain link and others, but not split rail or primarily barbed wire.

Fence, Site-Obscuring - A fence consisting of wood, metal, or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

Fill - The placement, deposition or stockpiling of sand, sediment or other earth materials to create new uplands or create an elevation above the existing surface.

Finished grade - The final elevation of the ground level of a property after construction is completed.

Fire Break - A break in ground cover fuels, adjacent to and surrounding buildings.

Floor Area - The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of the walls separating two buildings. The floor area measurement is exclusive of unfinished attics and basements, attached garages & carports, and covered or uncovered porches, decks, and breezeways

Flow - The volume of water passing through a hydroelectric facility during a given period. Flow is expressed in cubic feet per second.

Footprint - The area that falls directly beneath and shares the same perimeter as a structure.

Forbs - Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grass-like plants.

Foreground ~~(SMA)~~ - ~~One-half mile either side of traveled road or trail.~~**One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Foreground is represented in the space from zero (the viewer) up to one half mile.**

Forest health (SMA) - A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

Forest Practice (SMA) - Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is

excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

Forest Practice (GMA) - Those activities related to the growing and harvesting of forest tree species as defined by the Oregon Forest Practices Act.

Forest Products - Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

Forest Service - ~~U.S. Forest Service, National Scenic Area Office, located in Hood River, Oregon.~~ **The United States Department of Agriculture Forest Service – National Scenic Area Office.**

Forest stand structure (SMA) - The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

Forest Use - The growing, propagation and harvesting of forest tree species and other forest products.

Foster Home - A home licensed by the State and providing shelter and food to not more than five (5) persons in addition to the primary owner or occupant of the home.

Frontage - All the property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway and/or dead-end street shall determine only the boundary of the frontage on the side of the street which it intercepts.

Fruit and produce stand - A venue on a farm or ranch selling produce and agricultural products primarily grown on the subject farm or ranch. Associated incidental agricultural products from the local region and associated incidental marketing materials shall not make up more than 25% of the sales at the stand. Incidental products may include processed foods like jams and jellies. Foods prepared for consumption on the premises are not permitted. Fruit and produce stands are not a commercial use.

Fully Screened - A description ~~of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point.~~**used when determining compliance with the scenic standards (visually subordinate and not visually evident), where a structure, development or use is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). See Scenic Resources Implementation Handbook for more information regarding screening for development in the National Scenic Area.**

Future Street - A proposed right-of-way as may be designated by the Planning Commission, or such other agency or authority as provided for herein, which street is necessary for the future subdivision of property, shown on the subdivision plats and/or maps, but that the present dedication and construction of such street is not warranted.

Garage, Public - A structure in which are provided facilities for the repair of motor vehicles, including body and fender repair, painting, rebuilding, reconditioning, upholstering, or other vehicle maintenance repair, or where such vehicles are parked or stored.

GMA Only - This is a reference mechanism throughout this ordinance to signify that a use or criteria is only

applicable in the General Management Area.

GMA & SMA - This is a reference mechanism throughout this ordinance to signify that a use or criteria is applicable in both the General Management Area and the Special Management Area.

Gorge Commission - The Columbia River Gorge Commission as established by Public Law 99-663, the Columbia River Gorge National Scenic Area Act.

Grade (Adjacent Ground Elevation) - The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five (5) feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five (5) feet distant from said wall.

Grade (ground level) - The average elevation of the finished ground elevation as defined by the **International**~~Uniform~~ Building Code.

Grading - Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Gross Building Area - The total area taken on a horizontal plane at the mean grade level of the principal building, and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhang and balconies.

Group Day Care Home - A facility located in a single-family dwelling that is certified by the Children's Services Division to care for six (6) to twelve (12) children under the age of thirteen (13) at one time. A group day care home must be within the home of the care provider, and is considered a residential use in residential and commercial zones.

Group Home - A licensed home maintained and supervised by adults for the purpose of providing care, food and lodging for retarded adults, elderly persons, or children under the age of eighteen (18) years, unattended by parent(s) or guardian(s) where the number of unrelated persons living together as one household commonly exceeds five.

Guest House - Living quarters within a separate structure, with no kitchen or laundry facilities, located on the same lot-of-record with a primary dwelling, and occupied solely by temporary guests. Such quarters shall not be rented or otherwise used as a separate dwelling unit. See Section 4.110 for "Guest House" development standards.

Guy Wire - A cable or wire used as a semi-flexible tension support between a guy anchor and a tower.

Half Street - One-half of the right-of-way of a public way equally divided by the property or border line, dedicated to the public together with the total width, here, of the public way by all owners, at the time of the recording of any plat including such half street or way.

Hazard tree (SMA) - A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

Head - The vertical distance from the highest water level of a dam, diversion, or intake for a hydroelectric facility to the elevation where water from the facility is discharged. Head is expressed in feet.

Health Officer - The North Central Public Health District Health Unit Officer or Environmental Health Officer.

Height of Building - The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

Herbaceous - A plant with no persistent woody stem above the ground, with characteristics of an herb.

Herbs – Non-woody (herbaceous) plants, including grasses and **grass like** plants, forbs, fern allies, and non-woody vines.– (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

High Water Line or Mark - The highest water level a stream or lake reaches during normal seasonal run-off.

Historic Buildings and Structures - See cultural resource.

Historic Survey - Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

Holdings - All contiguous lands in a single ownership.

Home Occupation - ~~Any lawful activity carried on within a dwelling or other building normally associated with uses permitted in the zone and which said activity is secondary to the primary use of the property for residential purposes.~~ **A small-scale commercial use conducted in a legal single-family dwelling or accessory structure, employing the residents of the dwelling and up to three outside employees. Periodic use of home offices, studios, and other work areas used only by the residents of the dwelling are not a home occupation.**

Horizontal Axis WECS - A WECS on which the rotor axis substantially is parallel to the ground.

Horse, Boarding of (GMA) - The stabling, feeding and grooming , or the use of stalls for the care of horses not belonging to the owner of the property, and related facilities, such as training areas, corrals and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

The boarding of horses does not include the following:

a. The mere pasturage of horses or the boarding of horses not owned by the property owner for the purpose of breeding with the owner's stock;

b. The boarding of horses for friends or guests where no charge is made; and

c. Equestrian activities when the raising, feeding, training or grooming of horses is a farm use by the property owner of the land qualifying for farm assessment under regulations of the State Department of Revenue.

Horticulture - The cultivation of plants, garden crops, trees and/or nursery stock.

Hospital, General - An institution providing health services, primarily for in-patients, and medical, psychiatric or surgical diagnosis and care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient facilities, central service facilities, retail facilities, for the needs of patients, staff and doctors' offices, and residential facilities for staff and patients.

Hospital, Mental - A hospital used exclusively for the treatment of persons suffering from nervous or mental disorders.

Hotel - A building or portion thereof of more than five (5) sleeping rooms designed or used for occupancy of individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

Hydric Soil - A soil that is saturated, flooded, or ponded long enough during the growing season to development anaerobic conditions in the upper part.

Immediate Family Member - Family member of the first degree of kinship or equivalent thereof.

Immediate Foreground for scenic corridors – A subset of one of the the three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Immediate foreground is represented in the space from zero (the viewer) up to one-quarter mile. For scenic travel corridors in the GMA, immediate foreground also includes lands within one-quarter mile of the edge of pavement. In the SMAs, immediate foreground includes the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs (such as Crown Point or Multnomah Falls).

In-lieu or treaty fishing access Sites - **S**~~s~~ites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law **79-**14 and Public Law 100-581, Section 401. Additional in-lieu **or treaty fishing access** sites will be provided for.

~~**Indian Tribal Government** - The governing bodies of the Nez Perce Tribes (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustee), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima~~**Yakama** ~~Indian Nation (Tribal Council).~~

Indian Tribes - The Nez Perce Tribe, the Confederated Tribes and Bands of the ~~Yakima~~**Yakama** Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

Industrial Uses - Any use of land or water primarily involved in:

a. Assembly or manufacture of goods or products;

b. Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;

c. Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products or recyclable materials for purposes other than retail sale and service; or

d. Production of electric power for commercial purposes.

New industrial uses shall not be allowed in the Scenic Area outside Urban Areas.

Interpretive Displays - Signs and structures which provide for the convenience, education, and enjoyment of visitors, helping them to understand and appreciate natural and cultural resources and their relationship to them.

Junk Yard - Any property where persons are engaged in breaking up, dismantling, sorting, distributing, buying or selling of any scrap, waste materials or junk.

Key Components - The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

Key Viewing Area (KVA) - Those portions of **identified** important public roads, parks or other vantage points within the **National** Scenic Area from which the public views **National** Scenic **Area** landscapes. **Such portions include gathering points, rest areas, roads and trails that provide primary access to the area, parking lots, and associated recreation areas. Identified areas** ~~These~~ include:

--Historic Columbia River Highway **(including the Historic Columbia River Highway State Trail)**
--Crown Point
--Highway I-84, including rest stops
--Multnomah Falls
--Washington State Route 14
--Beacon Rock
--Panorama Point Park
--Cape Horn
--Dog Mountain Trail
--Cook-Underwood Road
--Rowena Plateau and Nature Conservancy Viewpoint
--Portland Women's Forum State Park
--Bridal Veil State Park
--Larch Mountain **(including Sherrard Point)**
--Rooster Rock State Park
--Bonneville Dam Visitor Centers
--Columbia River
--Washington State Route 141
--Washington State Route 142
--Oregon Highway 35
--Sandy River
--Pacific Crest Trail

For project located in the SMAs only:

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

Kitchen - A place where food is cooked or prepared as well as the place where the facilities and equipment used to cook, prepare and store food are located.

Land Division - The division or re-division of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to short subdivisions, partitions and subdivisions. Land division does not include the creation of cemetery plots while used for that purpose.

Landscaping - Improving the aesthetics of a piece of land by the grading, clearing and use of natural or artificial material. Landscaping may be subject to Chapter 14.

Landscape Setting - The combination of land use, **and cultural features,** landform **pattern and features,** ~~and~~ vegetation **and waterform that** ~~patterns which~~ distinguish an area in appearance and character from other portions of the **National** Scenic Area.

Livestock Feedlot - Stockyards and commercial livestock finishing yards for cattle, sheep, swine and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

Loading Space - An off-street space or berth on the same lot or parcel with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or material, and which space or berth abuts upon a street, alley or other appropriate means of ingress and egress.

Local Access Road – Public road over which the public has a right of use that is a matter of public record and was legally created at the time of dedication, but has not been accepted for maintenance by the county, state or the US highway systems. Local access roads are privately maintained.

Local Road or Street - A road or street primarily used to provide direct access to adjacent land uses; characterized by short roadway distances, slow speeds, and low volumes; offers a high level of accessibility; serves passenger cars, pedestrians, and bicycles, but not through trucks. Local roads may be paved or unpaved. The typical average daily traffic is less than 250.

Lot - A unit of land that is created by a subdivision of land.

Lot Area - The total horizontal area within the lot lines of a lot.

Lot, Corner - A lot fronting on two (2) or more streets at their junction, said streets forming with each other an angle of forty-five (45) degrees up to and including one hundred thirty-five (135) degrees.

Lot Depth - The perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

Lot, Interior - A lot other than a corner lot.

Lot Lines - The lines bounding a lot as defined herein.

Lot Line Adjustment - Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels. See Property Line Adjustment and Replat.

Lot Line (Front) - In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest frontage of the lot from the street.

Lot Line (Rear) - The line dividing one lot from another and on the opposite side of the lot from the front lot line, and in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line.

Lot Line (Side) - In the case of an interior lot, a line separating one lot from the abutting lot or lots fronting on the same street, and in the case of a corner lot, a line separating one lot from the abutting lot or lots fronting on the same street.

Lot (Through) - An interior lot having frontage on two (2) streets.

Lot Width - The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Maintenance - Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

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

Management Plan - The Management Plan for the Columbia River Gorge National Scenic Area.

Manufacture - The processing or converting of raw, unfinished, or finished materials or products or any combination thereof into an article or substance of different character, or for use for a different character or purpose.

Map - A final diagram, drawing or other writing concerning a land division.

Medical Hardship – Means a temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, **Physician's** Assistant or Nurse Practitioner).

Metes and Bounds - The method used to describe a tract or tracts of land for the purposes of ownership or for building development, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot number and block designation.

Middleground – One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Middleground is represented in the space between the foreground and the background. The area located from one-half mile up to four miles from the viewer.

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

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

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

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

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

e. Offsetting impacts by creating or enhancing affected resources.

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

Mobile Home -

a. A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.

b. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

c. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

Mobile Home Community - A mobile home development and related utilities and facilities, including the mobile homes and all of the people living within the development.

Mobile Home Lot - A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

Mobile Home Park - Any place where four (4) or more mobile homes are located within five hundred (500) feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or

use of facilities or to offer space free in connection with securing the trade or patronage of such person.

Mobile Home Space - A plot or parcel of land within the mobile home park, designed to accommodate one (1) mobile home.

Mobile Home Stand - That part of a mobile home space which has been reserved for the placement of the mobile home, appurtenant structures, or additions.

Modular Unit - A fabricated, transportable building unit, other than a mobile home, designed to be incorporated at a building site into a structure to be used for residential and/or commercial, industrial, or agricultural purposes, with all of the following characteristics:

a. Having an electrical meter base permanently attached to the structure.

b. Designed and built to the specification of the State or County Building Code for conventional structures in effect at the time of its construction.

c. Having a permanent foundation.

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

Motor Home - A self-propelled recreation vehicle that is not used as a permanent residence.

Multi-family Dwelling - A dwelling constructed or modified into two or more ~~single-family~~ **dwelling** units.

National Scenic Area – The Columbia River Gorge National Scenic Area.

Native Species - Species that naturally inhabit an area.

Natural Areas - Areas sited in the Columbia River Gorge National Scenic Area Management Plan (Table 10, page I-138 through I-139) as having Representative Plant Communities or as being Botanically Significant.

Natural Grade - The undisturbed elevation of the ground level of a property before any excavation or construction operations.

Natural Resource-Based Recreation (SMA) - Recreation activities, uses or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; whereas golf courses, tennis courts, and rental cabins are not.

Natural Resources (GMA & SMA) - ~~Naturally occurring features including land, water, air, plants, animals, including fish, plant and animal habitat, and scenery.~~ **Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.**

Natural Resource Specialist - A person with professional qualifications including an academic degree or sufficient professional experience in the subject matter the specialist is being asked to analyze or evaluate.

Negotiate - Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to, advertising, solicitation, and promotion of such sale of land.

Net Metering - A simplified method of metering the energy consumed and produced at a private property that has its own renewable energy generator, such as a wind turbine. Under net metering, excess electricity produced by the wind turbine will spin the existing electricity meter backwards, effectively banking the electricity until it is needed by the customer.

Nonconforming lot or parcel - A lot or parcel lawfully created which does not conform to the current requirements of the zone in which it is located.

Nonconforming Structure or Use - A lawful existing structure or use at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Non-profit Organizations - An organization whose non-profit status has been approved by the U.S. Internal Revenue Service.

Not visually evident (SMA) ~~–~~ **– One of the two scenic standards applicable within the National Scenic Area.** ~~A~~ **A description of the relative visibility of a development, structure or use that provides for the deevelopments, structures** ~~visual quality standard that provides for development~~ or uses that are not visually noticeable to the casual visitor **and the defining landscape setting characteristics appear intact**. **Deviations may be present but must**~~Developments or uses shall only~~ repeat form, line, color, and texture **and pattern common to the natural landscape setting so completely and at such scale, proportion** t~~hat are frequently found in the natural landscape, while changes in their qualities of size, amount,~~ intensity, direction, pattern, etc., ~~shall~~**that it**~~l~~ not be noticeable.

Nursing Home - Any home or institution maintained or operating for the nursing and care of four (4) or more ill or infirm adults, not requiring hospital care or hospital facilities.

Official Map - Specifically describes the location of streets, highways, public parks, drainage systems and other public installations, both existing and planned, in the community. Once land has been placed on the official map, the Ordinance so providing restricts any further construction with the planned rights-of-way. The Official Map helps to implement the comprehensive plan.

Old Growth (SMA) - A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

Operational (SMA) - For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

Ordinary High Water Mark - The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the

abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

ORS. - The Oregon Revised Statutes.

Other related major structure (SMA) - A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

Overnight accommodations (GMA) – The rental of one of more rooms located in legal single-family dwelling on a daily or weekly basis. Overnight accommodations are clearly incidental to the use of a structure as a single-family dwelling and are owner-operated.

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

Owner - The individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Parcel (Legal)/Lot of Record - A unit of land created as follows:

a. A lot in an existing, duly recorded subdivision; or

b. A parcel in an existing, duly recorded partition (including major or minor land partitions); or

c. By deed or land sales contract prior to 4 September 1974.

A unit of land shall not be considered a separate parcel (legal)/lot of record simply because the subject tract of land:

a. Is a unit of land created solely to establish a separate tax account;

b. Lies in different counties;

c. Lies in different sections or government lots;

d. Lies in different land use or zoning designations; or

e. Is dissected by a public or private road.

Consolidation: See Section 13.200 for "Consolidation of Undeveloped Subdivisions.

Parking Lot, Private - Open off-street area used for temporary parking of more than three (3) automobiles, and available with or without charge, and with the permission of owner only.

Parking Lot, Public - Open off-street area used for temporary parking of more than three (3) automobiles, and available for public use with or without charge.

Parking Space - A minimum gross area available for the parking of a standard American automobile.

Parkway - A park-like major thoroughfare with broad rights-of-way and wide median areas, designed and landscaped to furnish a safe and pleasing drive between parks, scenic areas and principal objectives.

Partition - Either an act of partitioning land or an area or tract of land partitioned as defined in this section.

Partition Land - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where any additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

Party - With respect to administrative actions, the following persons or entities only, who file a timely statement or request for hearing as provided by general provisions of this Ordinance, are hereby defined as a party:

a. The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.

b. All property owners of record, as provided in (a) above, within the notification area, as described in Table 2-1, of the property which is the subject of the application.

c. A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to ORS. 197.160.

d. Any affected unit of local government or public district or state or federal agency.

e. Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority.

Pathway - A walkway conforming to Chapter 21 that is not within a street right-of-way.

Pedestrian Way - A way or right-of-way for pedestrian traffic.

Person - An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

Physical Settings – The physical quality of the landscape at a recreation site, and how rustic recreation facilities may appear. Physical setting is distinct and not to be confused with landscape settings and landscape setting character descriptions.

Place of Public Assembly - A structure which is designed to accommodate more than twenty-five (25) persons at one time for such purposes as deliberation, education, worship, shopping, entertainment or

amusement.

Planning Commission - The Wasco County Planning Commission.

Planning Control Area - An area in a state of incomplete development within which special control is to be exercised over land partitioning.

Plat - A special and final map, diagram or drawing of a subdivision, major or minor partition prepared from completed information, containing writings, descriptions, locations, specification, dedications, provisions, and information concerning a subdivision, being drawn to scale to geometrically represent defined land and setting forth all mathematical data necessary to the identification, location and perpetuation of the various land boundaries indicated thereon, without recourse to supplementary metes and bounds description for conveyances.

Porch - Outside walking area, the floor of which is elevated more than eight (8) inches from the ground.

Practicable - Able to be done, considering technology and cost.

Pre-existing - Existing prior to the adoption of the **first** Columbia River Gorge National Scenic Area Management Plan **on October 15, 1991.**~~.~~

Prevailing Wind Direction - Within 45 degrees of the direction from which wind flows for at least 20 percent of the year based on at least one ~~year's~~**year's** site-specific recorded wind data.

Previously disturbed - An area of land where the natural surface has been graded, excavated, paved and/or graveled.

Priority Habitat – Areas that provide habitat for sensitive wildlife determined by Forest Service, Oregon Department of Fish & Wildlife, or Washington Department of Fish & Wildlife.

Private Easement Road - A minimum 30 foot wide private easement in any zone that provides ingress and egress to a public or private road for not more than three (3) units of land and serves not more than three (3) units of land.

Private Road - A road in a resource zone (F-1, F-2, & A-1) whose primary purpose is to provide access for resource activities, that was accepted by the County Governing Body pursuant to Section 21.300 of this Ordinance or has been previously recognized by the County Governing Body and which is not public, but which intersects with an existing public road.

Project Area - The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

Property Line Adjustment - The relocation a common property line between two abutting properties. See Lot Line Adjustment.

Public dock – A dock constructed, maintained and operated by a federal, state, local or tribal governmental entity to provide public access to a water body.

Public Road - A road over which the public has a right of use that is a matter of public record and was legally created at the time of dedication.

Public Use Facility - Recreation development(s) which meet the definition of "recreation facility" in this ordinance and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

Ramada - A freestanding roof or shade structure installed above the roof of a mobile home that provides protection from rain, snow, sun or other forms of inclement weather.

Rare Plant Species - ~~Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.~~ **Various categories of plants and plant communities cited in federal and state programs. Rare plants and rare plant ecosystems are:**

1. Endemic to the Columbia River Gorge and vicinity (see Table 2),

2. Listed as endangered or threatened pursuant to federal or state endangered species acts, or

3. Designated global or state status rank 1, 2, or 3 by the Oregon Biodiversity Information Center or Washington Natural Heritage Program.

In the SMAs, rare plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Rare Wildlife Species - Wildlife species that are;

1. Listed as endangered or threatened pursuant to federal or state endangered species acts,

2. Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

3. Listed as sensitive by the Oregon Fish and Wildlife Commission, or

4. Considered to be of special interest to wildlife management authorities and the public (great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).

In the SMAs, rare wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Reconnaissance Survey - Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

Recreation Facility - A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and which are not separated in distance by more than one-quarter mile of land not containing any such **recreational** developments or improvements, except for roads and/or pathways.

Recreation Opportunity Spectrum (ROS) - A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

a. Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

b. Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

c. Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

d. Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

e. Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

f. Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

Recreation resort – A master-planned development focused on accessing a range of resource-based recreational opportunities, consisting of predominately short-term visitor accommodations and supporting commercial uses.

Recreation Resources - Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.

Recreation Setting - The tool for managing recreation development and opportunities based on the sites social, physical, and managerial setting

Reflective surface - Providing a reflection; capable of reflecting light or other radiation.

Recreational Vehicle or Camping Vehicle - A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes, but not for residential purposes, and is identified as a recreational vehicle by the manufacturer. A recreational or camping vehicle shall be considered a dwelling unit if *any* of the following are true:

a. It is connected to a sewer system (including septic tank) except for the purpose of emptying the holding tanks; after such time it must be disconnected;

b. It is connected to water or electrical lines except for purposes of charging the batteries or filling water tanks; after such time it must be disconnected;

NOTE: Allowances can be made for subsections a and b above if in the opinion of the Compliance Officer evidence suggests that the use of the RV is occasional and temporary for

the purpose of accommodating visitors

c. It is occupied for more than 60 days, on the same property, in any consecutive 12 month period; or

d. It is parked on property that is without a legally placed dwelling for more than 30 days during any 6 month period.

Recreational Vehicle Park - A lot or tract where the primary land use is the parking, on a fee or other basis, occupied by motor homes, truck campers, travel trailers, or other recreational vehicles.

Regularly maintained - An area of land that has been previously disturbed and where periodic actions have been taken to:

a. keep the area clear of vegetation (e.g., shoulders, utility yards); and

b. limit the height and type of vegetation (e.g., utility rights-of-way), and/or

c. establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

Rehabilitation (Natural Resources) - A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or pre-construction condition.

Remnant old forest (SMA) - Large trees in the overstory that are well into the mature growth state (older than 180 years).

Repair - Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition (in kind). It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure.

Repair includes, but is not limited to, re-roofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

Replat - The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, to increase or decrease the number of lots in a subdivision, or to correct an error or irregularity in the original plat.

Reserved Open Space - Land areas reserved through public dedication, public ownership, easements, covenants, or other devices for public use and limited development.

Residential Trailer - A portable residence that is transportable on public highways by permanently attached axles, the dimensions of which do not exceed thirty-two (32) feet in length, or eight (8) feet in width, or any equivalent dimension combination.

Resource-based Recreation - Those recreation uses which are essentially dependent upon the natural, scenic or cultural resources of the Scenic Area and which do not adversely affect those resources upon which they depend.

Restaurant - A public establishment for the purpose of selling meals to customers.

Restoration (Wetlands) - A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

Retirement Center - A building or group of buildings containing separate dwelling units designed for and occupied principally (at least one occupant of each dwelling unit), by persons over the age of sixty (60) years, excluding convalescent and nursing care as a function of the center.

Reversed Corner Lot - A corner lot where the street side line is substantially a continuation of the front lot line of the first lot to its rear.

Review Types –

a. Type I (Ministerial/Nondiscretionary)

These procedures are decided by the Director, or the Director's designee without public notice or public hearing. They do not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. Type I does not qualify as a "land use decision" under ORS 197.015(11).

b. Type II (Administrative/Discretionary)

These procedures are decided by the Director or the Director's designee with notice, as established by Chapter 2, and appeal period established by ORS 215.416(11). They do require interpretation or the exercise of policy or legal judgment in evaluating approval standards and qualify as a land use decision under ORS 197.015(11). An appeal of a Type II decision becomes a Type III review.

c. Type III (Quasi Judicial/Planning Commission or County Governing Body)

Planning Commission

These procedures are initially heard and decided solely by the Planning Commission or on appeal from the Planning Director with the hearings process, notice and appeal period governed by ORS 197.763. They do require interpretation or the exercise of policy or legal judgment in evaluating approval standards and qualify as a land use decision under ORS 197.015(11).

County Governing Body

These procedures are initially heard and decided solely by the County Governing Body or on appeal from the Planning Commission with the hearings process, notice and appeal period

governed by ORS 197.763. They do require interpretation or the exercise of policy or legal judgment in evaluating approval standards and qualify as a land use decision under ORS 197.015(11).

d. Type IV (Legislative/County Governing Body)

These procedures are heard and decided solely by the County Governing Body after an initial hearing and recommendation is made by the Planning Commission. The hearings process, notice and appeal period are governed by ORS 197.763. They do require substantial interpretation or the exercise of policy or legal judgment and qualify as a land use decision under ORS 197.015(11).

Review uses - Proposed uses and developments that must be reviewed by Wasco County to determine if they comply with the Wasco County National Scenic Area Land Use and Development Ordinance.

Right-of-Way - The area between boundary lines of a road, street or other easement. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way shall be dedicated or deeded to the public for public use and under the control of a public agency, or it shall be dedicated or deeded and privately owned.

Riparian Area - The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

Road - The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

a. Ways described as streets, highways, throughways, or alleys;

b. Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and

c. Structures that provide for continuity of the right-of-way such as bridges.

Roadway - The portion or portions of a right-of-way developed for vehicular traffic.

Rotor - A system of rotating aerodynamic elements and hub assembly attached to a shaft that converts the kinetic energy in the wind into mechanical energy or a rotating element in an electrical generator.

Rotor Diameter - Twice the distance from the center of rotation to the outermost point of the blade.

Sale or Sell - Includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

Scenery Management System – The overall framework for the orderly inventory, analysis, and

management of scenery developed in coordination with the Forest Service.

Scenic Area - The Columbia River Gorge National Scenic Area.

Scenic Travel Corridor - Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the **National** Scenic Area, specifically designated to be managed as scenic and recreational travel routes.

Secretary – The U.S. Secretary of Agriculture.

School, Commercial - A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise, as distinguished from schools endowed and/or supported by taxation.

School, Elementary - A school offering instruction to one (1) or more grades, between and including the fifth through the eighth, exclusively, or in combination with grades lower than the fifth.

School, High - A school offering instruction to one (1) or more grades, between and including the ninth through the twelfth, or in combination with the seventh and eighth grades.

School, Nursery - A school offering instruction and guided activity to kindergarten or pre-kindergarten classes.

School, Primary - A school offering instruction to one (1) or more grades, between and including kindergarten through the fourth.

School, Private or Parochial - A school under the control of and financed primarily by a religious or philanthropic and non-profit institution operating in conformance with relevant State Department of Education regulations.

School, Public - A school under the control of and financed by legally constituted public school districts in the State of Oregon.

Seasonal Farm Worker - Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to, the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

Secretary - The Secretary of Agriculture.

Sectional Home - Defined the same as a modular home.

~~**Sensitive Plant Species** - Plant species that are~~

~~**a.** endemic to the Columbia River Gorge and vicinity,~~

~~**b.** listed as endangered or threatened pursuant to federal or state endangered species acts, or~~

~~c. listed as endangered, threatened or sensitive by the Oregon Natural Heritage Program as they appear in lists on file at the Columbia River Gorge Commission Office.~~

~~In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists. The Forest Service and Gorge Commission are responsible for necessary updates to the lists.~~

~~**Sensitive Wildlife Species** - Animal species that are:~~

~~a. listed as endangered or threatened pursuant to federal or state endangered species acts,~~

~~b. listed as sensitive by the Oregon Fish and Wildlife Commission, or~~

~~c. considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon as they appear on lists on file at the Columbia River Gorge Commission office.~~

~~In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists. The Forest Service and Gorge Commission are responsible for updating the referenced lists.~~

Service Station - A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

Serviceable - Presently useable.

Sewage - Water-carried human or animal waste and kitchen, bath, or laundry waste, from a building, together with such groundwater infiltration and surface water as may be present.

Shall - Action is mandatory.

Should - Action is encouraged.

Shrub - A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

Sidewalk - A pedestrian walkway with permanent surfacing.

Sign - Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-

of-doors position, any frame or support structure erected specifically to bear or uphold a sign.

Sign, Advertising - A sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold or offered upon the premises where such a sign is located.

Significant Adverse Effect - A consequence of a facility that irreparably reduces management of or damages a resource listed as a standard and identified in the comprehensive plan and the Wasco County Land Use and Development ordinances.

Significant Archaeological Sites - Sites possessing valuable artifacts or evidence of ~~prehistoric~~**precontact** cultures, including areas catalogued by the National Park Service, United States Department of the Interior, and areas identified by academic institutions.

Significant Change - A change in an existing facility which increases the impact of the facility on abutting properties. This provision shall be interpreted broadly to invoke review of any potentially significant change. However, a significant change shall not include ordinary and regular maintenance, actions such as research, monitoring, and impact mitigation that were authorized or required by law. Significant change shall not include other actions, such as reconducting, which may increase the useful life of the facility without increasing long-term, off-site impacts.

Significant Cultural Resource (SMA) - A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. [The criteria for evaluating the eligibility of properties for the National Register of Historic Places appears in "National Register Criteria for Evaluation" (36 CFR 60.)]

Significant Interference with Wind Access - A ten (10) percent decrease in wind speed caused by an obstruction(s).

Single-wide Mobile Home - One (1) complete living unit constructed on a single chassis.

Skyline - The line which represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, **and is topographically visible** ~~as viewed~~ from a specified vantage point. ~~In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.~~ **The skyline is formed where the surface of the earth meets the sky except in existing densely forested landscapes with thick, unbroken coniferous tree cover characteristic to its setting, the skyline may be formed by the top of the vegetative canopy.**

Slope - An incline in an oblique direction from the perpendicular.

Social Settings – Identifies the opportunities for solitude as well as quantity and type of encounters visitors could experience when visiting a recreation site or area.

SMA Only - This is a reference mechanism throughout this ordinance to signify that a use or criteria is only applicable in the Special Management Area.

Soil Capability Class - A classification system developed by the U.S. Soil Conservation Service to group soils as to their capability for agricultural use.

Solid Waste - All putrescible and non-putrescible waste, including, but not limited to, garbage, rubbish, refuse, ashes, waste paper and cardboard, grass clippings, composts, sewer sludge, residential, commercial, and industrial appliances, equipment and furniture, discarded or inoperable vehicles, vehicle parts or vehicle tires, manure, vegetable or animal solid and semisolid waste and dead animals. The term Solid Waste does not include:

a. Materials used for fertilizer or for other productive purposes on land in the growing and harvesting of crops or the raising of fowl or animals;

b. Septic tank and cesspool pumping or chemical toilet waste;

c. Reusable beverage containers as defined in ORS 459A.725; and

d. Source separated principal recyclable materials as defined in ORS Chapter 459 and the Rules promulgated thereunder, which have been purchased or exchanged for fair market value.

Special District - Any unit of local government other than city or county, authorized and regulated by statute. Special district includes, but is not limited to: water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, mass transit districts, sanitary districts, and Soil & Water Conservation District.

Special Road District – For the purposes of improving roads, special road districts may be formed from contiguous territory lying within the county and not incorporated within the limits of a city. Special road districts are governed by a board of commissioners, either appointed or elected. Special road districts have the following powers: to make contracts; to acquire, hold, receive and dispose of real and personal property; to sue and be sued; to exercise the power of eminent domain; to assess, levy and collect taxes on all taxable property within the district; and to do any other act necessary to carry out purposes of the special road district. See ORS 371.305.

Special Habitat Area - Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

Special Streams - Streams that are primary water supplies for fish hatcheries and rearing ponds.

Stable, Private - A detached accessory building for the keeping of horses owned by the occupants of the premises and which are not kept for remuneration or profit.

Stand - A group of trees possessing uniformity with regard to type, age, vigor, or size.

Standard Drawing - A drawing drawn to the specifications as established by the County Planning Director or County Roadmaster.

Story - A single floor level of a structure as defined by the **International** ~~Uniform~~ Building Code.

Story, Half - A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

Streams - Areas where surface water produces a defined channel or bed, including bedrock channels, gravel

beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface-water runoff structures or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction in such ~~water courses~~**watercourses**.

For this ordinance, streams are categorized into two classes: perennial streams and intermittent **or ephemeral** streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally **(ephemeral)**, during years of normal precipitation.

Street - The entire width between the right-of-way lines of every way for vehicular and pedestrian traffic, and includes terms, "roads", "highways", "land", "place", "avenue", "alley", and other similar designations.

Street Plug or Reserve Strip - A narrow strip of land controlling access to a street or half street, title to which is dedicated to the County and the disposal of which land shall be placed within the jurisdiction of the County Governing Body for disposal under conditions approved by the Commission.

Structure - That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to buildings, walls, fences, roads, parking lots, signs**, patios, driveways,** and additions/alterations to structures**, including repaving or resurfacing roads, driveways, and patios**~~.~~**.**

Subdivide - To effect a subdivision, as applied to this Ordinance.

Subdivider - Any person, as defined herein, who undertakes proceedings to effect a subdivision of land, including changes in street or lot lines, for the purpose of transfer of ownership of development.

Subdivide Land - To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivision - Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

Submit - To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

Subsurface Testing - Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests and auger borings.

Suitability - The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production~~;~~**; whether the land is committed to another land use that does not allow for agricultural use;** surrounding uses and features associated with development, compatibility with scenic, cultural, natural and recreation resources, compatibility among uses, and other cultural factors, such as roads, ~~powerlines~~**power lines**, dwellings and size of ownership.

Swept Area - Area perpendicular to the wind velocity that a rotor will cover during one complete rotation.

Tax Lot - An identification number assigned by the Oregon Department of Revenue to delineate property ownership for the purpose of taxation.

Tentative Plan Map for a Partition - A drawing or diagram prepared from completed information, in compliance with regulations and ordinances adopted pursuant to ORS 92.046, and regulations of ORS 209.205, representing defined land, setting forth intentions in writing, and including relative mathematical and descriptive data for preparation of conveyances by metes and bounds descriptions.

Thinning (SMA) - A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

Tiedowns - Strapping or cables attached to the mobile home and connected to anchors embedded in the ground, which secure a mobile home from damage and movement during high winds.

Topographic Visibility – Refers to areas that can be seen (generally from a key viewing area, for the purpose of the Management Plan) if all vegetation were to be removed.

Total canopy closure (SMA) - For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

Total WECS Height - The height of a WECS measured from ground level to the highest vertical extension of a WECS.

Tourist Court - A group of attached or detached buildings containing separate rooms or living units for the temporary use of automobile travelers, having garage attached or parking space adjacent to every unit, including auto courts, motels, or motor cottages.

Tract - All contiguous lots, parcels or lot of records under the same ownership.

Traditional foods – Natural and cultural resources that Native Americans rely on for sustenance, based history, culture and tradition.

Trail Characteristics – Tools to describe the types of trail conditions that recreationists should expect when visiting a recreation resource.

~~**Travelers Accommodations** - Any establishment having rooms rented or kept from rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.~~

Travel Trailer - A recreation vehicle that is not used as a permanent residence, is transportable on public highways by permanently attached axles, and does not exceed thirty-two (32) feet in length, or eight (8) feet in width, or any equivalent dimension combination.

Treatment (SMA) - For forest practices, a site-specific operation that carries out the forest management objectives for an area.

Treaty Rights or Other Rights - Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

Tribal Government - The governing bodies of the Nez Perce Tribes (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustee), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

Tributary Fish Habitat - Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

Truck Camper - A recreation vehicle, camper, or canopy that fits onto the bed of a pickup or flat-bed truck, and that is not used as a permanent residence.

Understory (SMA) - For forest practices, the shorter or immature trees below the tall or mature overstory trees.

Undertaking - Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources is located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

Unimproved Lands - Lands that generally do not have developments such as buildings or structures.

Unique Ecologic Associations - Land areas where species composition, vegetative characteristics, or systems variations produce ecologic patterns of unusual and rare quality that cannot be observed elsewhere in Wasco County.

Unique Geological Features - Fossil beds, formation type locations, and major structural features that cannot be observed elsewhere in the State of Oregon.

Unit of Land - An area of contiguous land at least of sufficient size to meet minimum zoning requirements for use, coverage of an area, and to provide such yards and other open spaces as are required by this Ordinance; such property shall have frontage on a public street, or such other access approved by the Commission or Court under provisions of this ordinance. A unit of land may be:

a. A single lot of record;

b. A lot as defined herein;

c. A parcel, as defined herein.

Upland - any area that does not qualify as a wetland because the associated hydrologic regime is not

sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands.

Unobstrusive – When a structure does not intrude or visually dominate the scene of a landscape and for which the introduced forms, lines, colors, textures, and patterns mimic the native environment.

Use - The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is not or may be occupied or maintained.

Use, Conditional - The term applied to a use which may be permitted by the application for, and the issuance of a Conditional Use Permit.

Use Permit - A permit allowing a specific use.

Use, Professional - The place of business of a person engaged in a profession such as accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts.

Use, Prohibited - A use not allowed in a zoning district.

Uses allowed outright - New uses and developments that may occur without being reviewed by Wasco County to determine if they are consistent with the Wasco County National Scenic Area Land Use and Development Ordinance.

Utility Facility - Any structure which provides for the transmission or distribution of water, sewer, fuel, electricity, and/or communications.

Variance - A specific deviation from a part of this Ordinance.

Vehicle Site - The area or place used for parking occupied residential trailers or recreational vehicles, and may include sewer, water, gas or electrical hook-ups. Places used to store unoccupied recreational vehicles are not considered to be recreational vehicle sites.

Vertical Axis WECS - A WECS which rotor axis is vertical.

Vested right - The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to the Wasco County Land Use and Development Ordinance.

Veterinary Hospital - An institution providing overnight medical services for sick and injured animals, and including such related facilities as laboratories, X-ray, and boarding.

Veterinary Office - An office which provides medical services for sick and injured animals on an out-patient basis.

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Viewshed - A landscape unit ~~seen~~**visible** from a key viewing area.

Visual Quality Objective (VQO) - Is a set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

Visually Subordinate ~~–~~ **— One of the two scenic standards applicable in the National Scenic Area.** A description of the relative visibility of a **development,** structure or use where that **development,** structure or use does not noticeably contrast with the **defining**~~surrounding~~ landscape **setting characteristics**, as viewed from a specified vantage point**, and the setting appears only slightly altered (distinctive characteristics of that setting remain dominant)**. As opposed to **development,** structures **or uses that**~~which~~ are fully screened, structures which are visually subordinate may be partially visible **but would be difficult to discern to the common viewer**. ~~They are not visually dominant in relation to their surroundings.~~ Visually subordinate **development, structures, or uses as well as** forest practices in the SMA**s** shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of **scale**~~size~~, **proportion,** ~~amoun~~t, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

Walkway - A sidewalk or pathway, including access ways, providing a pedestrian connection that is improved to County standards, or to other roadway authority standards, as applicable. See also, Access, Pathway, Sidewalk.

Waterbody - A lake, wetland, or Class I or Class II stream.

Water-Dependent - Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

Water-Related - Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the General Management Area, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretive aids, such as kiosks and signs.

WECS - See Wind Energy Conversion System.

WECS Site - The lot or lots upon which a WECS is situated. If abutting lots are used primarily for WECS, the WECS site encompasses all such abutting lots.

WECS Tower - Subsystem of a WECS that supports the rotor, or other collection device, above-ground.

Wetlands - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence o**f**~~f~~ vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

Wetlands Functions - The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

Wildlife Areas - Areas identified and inventoried by wildlife biologists from several federal and state resource agencies that have special values including:

a. Areas that are used by wildlife species that have limited or declining populations.

b. Habitats that are highly vulnerable to the effects of new development and uses.

c. Areas that support large numbers of wildlife species.

d. Areas that are essential to the long-term existence of a given species, including breeding habitat, seasonal ranges, and movement corridors.

e. Habitat of limited availability.

The Management Plan for the Columbia River Gorge National Scenic Area lists the types of habitat areas inventoried in Table 4, page I-129. The Columbia River Gorge Commission has a list on file of the habitat sites. The Forest Service and Gorge Commission will provide and update mapped inventory information for County use.

Wind Energy Conversion System (WECS) - A device that converts the kinetic energy in the wind into electric energy. The WECS includes all parts of the system except transmission lines.

Wind Energy Facility - One or two WECS including all parts of the system on the same tract.

Wind Measurement Device - An instrument for measuring wind speed and/or direction, including the tower or pole upon which it is mounted.

Winery or cidery - An agricultural ~~facility~~**building** used for processing **fruit**~~grapes~~ into wine **or cider**, including laboratories, processing areas, offices, and storage areas. A winery **or cidery** is distinct from a wine **or sales** sales **and**~~/~~tasting room; each of these uses must be explicitly reviewed and approved.

Wine or cider sales and~~/~~**tasting room** - A facility that is accessory to a winery **or cidery** and used for tasting and retail sales of wine **or cider**, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine **or cider** sale **and**~~s/~~tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events", Section 20.300 of this Ordinance. A wine **or cider** sale**s and**~~s/~~tasting room is distinct from a winery **or cidery**; each of these uses must be explicitly reviewed and approved.

Woody Plant - A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Yard - An open space on a lot with a building and bounded on one (1) or more sides by such building, such space being unoccupied and unobstructed from the ground upward.

Yard, Front - A yard between the front line of the main building (exclusive of steps), and the front property line. Front property line is that side of a lot or parcel where access is obtained from a street or road.

Yard, Rear - An open, unoccupied space on the same lot with the main building, between the rear line of the main building (exclusive of steps, porches, and accessory buildings), and the rear line of the lot.

Yard, Side - An open, unoccupied space on the same lot with the main building, between the side wall line of the main building and the side line of the lot.

Yurt: A round, domed shelter of cloth or canvas on a collapsible frame. (ORS 215.283(2)(c))

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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 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 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 Director 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.

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. 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 legal judgment.

B. The following applications for Type III and Type IV Quasi-Judicial and Legislative Actions shall be heard by the Planning Commission, 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. ~~Cluster Developments (Chapter 18)~~
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 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 of 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 Department 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 ~~Indian tribal~~**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 ~~Indian tribal~~**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 ~~Indian Tribal~~**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.

e. 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.

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 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 ~~Indian tribal~~**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,

(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

1. 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.

2. 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. 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. 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, 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. In all cases, 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 ~~Indian tribal~~**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 ~~Indian tribal~~**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 or County Governing Body hearing; or

(c) 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.

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.

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.

E. 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.

F. Appeal of an administrative decision to the Planning Commission shall be "de novo"; i.e., conducted as a new hearing before the public.

G. 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.

H. 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.

I. 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

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

A. Review of the decision of the Planning Commission:

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.

B. 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.

C. 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.

D. 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 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 if it is satisfied that testimony or other evidence could not have been presented at the hearing before the Planning Commission. 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. 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 Decision:– Either the Chairman of the Planning Commission or the Director of Planning or both.

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 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 to conditions.

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 Department 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 ~~Indian Tribal~~**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 appeal period.

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 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 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 Agricult. 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 - 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 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 the boundary.

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 ~~for~~ **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 ~~guardrails~~ **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, replace**ment** ~~—~~ ~~and/~~or expan**sion**~~d~~ **of** existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

8. In the Special Management Area, replace**ment** ~~and/~~or expan**sion**~~d~~ **of** existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective. **The entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.**

9. ~~Resurface or overlay~~ **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

~~**c.** Change existing structures or add new structures.~~

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

c. ~~Change existing structures or add new structures.~~

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*** ~~*for*~~ *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 between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

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 existing grade.

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** ~~guardrails~~ 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 ~~free-standing~~freestanding solar arrays, which are subject to full review as new structures under Chapter 19.

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~~**earth tones** found at the specific site or the surrounding landscape. The specific colors **approved by the reviewing agency** ~~or list of acceptable colors~~ shall be included as a condition of approval. This guideline shall not apply to additions ~~, which may match the color of existing buildings.~~**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** ~~Outdoor lights~~ shall be directed downward and sited, hooded, **limited in intensity**– and shielded ~~such that they are not highly visible from key viewing areas.~~**in a**

manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

e. Structures within ½-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual 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/or 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. Wetlands, **Riparian Areas,** Streams, Rivers, Ponds, and Lakes:

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

b. Sensitive Wildlife and ~~Sensitive Plants~~**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 ~~areas or~~ sites (excluding sensitive aquatic species, **and** deer **and elk** winter range~~, and turkey habitat)~~ and known ~~sensitive plants~~**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 ~~areas or~~ sites (excluding sensitive aquatic species, **and** deer **and elk** winter range ~~and turkey habitat~~), but an appropriate federal or state wildlife agency determines the **Priority Habitat or** sensitive wildlife ~~area or~~ site is not active or the proposed development would not compromise the integrity of the **Priority Habitat or sensitive** wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance.

For ~~sensitive plants~~**rare plants**, the development is within 1,000 feet of known ~~sensitive plants~~**rare plants**, but the ~~Oregon Natural Heritage Program~~**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 ~~sensitive plants~~**rare plants**.

(2) Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife or ~~sensitive plants~~**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 Indian tribe.

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.

SECTION 3.120 "A-1" Large Scale Agriculture Zone (GMA & SMA)

A. Purpose

The purpose of the Large Scale Agriculture Zone is to protect and enhance large scale agricultural land for agricultural uses. Large Scale Agricultural lands are generally:

1. Currently devoted to agriculture of a scale that is land intensive, employs workers, or provides significant products for markets or processors; or

2. Have a combination of soil capability, size and freedom from conflicting use that renders them suitable for large-scale agriculture or forest use.

B. Uses Permitted Without Review

The uses and activities listed in Section 3.100 may be allowed without review on lands designated Large-Scale Agriculture. (GMA & SMA)

C. Uses Permitted Subject to Expedited Review

The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Large-Scale Agriculture subject to the Expedited Review Process, Subsection G - Property Development Standards, and Chapter 11 - Fire Safety Standards as well as all other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.** (GMA & SMA)

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Large-Scale Agriculture subject to Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as all other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.**

FARM USE

1. New cultivation in the GMA and SMA, or new agricultural use in the SMA outside of previously disturbed and regularly worked fields or areas**, upon demonstration that the landowner has sufficient water to support the use.**

Clearing trees for new agricultural use is subject to criterion J(5): (SMA Only)

2. Forest practices in accordance with an approved forest practices application consistent forest practice requirements listed in criterion J(6) below. (SMA Only)

3. Agricultural structures~~, except buildings,~~ in conjunction with agricultural use**, including new cultivation**. Noncommercial wind energy conversion systems which fit this category are subject

to the applicable provisions of Chapter 19. (GMA & SMA).

4. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the following standards:– (GMA & SMA)

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.– The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application:

RESIDENTIAL USE

5. One single family dwelling customarily provided in conjunction with agricultural use, as defined, subject to the following standards: (GMA & SMA)

a. There are no other dwellings on the subject farm or ranch, including all of its constituent lots/parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;

b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land.– Current use includes a minimum area which would satisfy (c)(4) below; and

c. The operation is a commercial agricultural enterprise as determined by the submittal of a Farm Management Plan defined in Section 1.200 and an evaluation of the following factors:

(1) Size of the entire unit, including all land in the same ownership;

(2) Operational requirements for the particular agricultural activity common to area agricultural operations; and

(3) The farm or ranch, and all its constituent parcels, **must produce**~~is capable of producing~~ at least $**8**4**0**,000 in gross annual income **in 2020 dollars**.— **This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year.**— This determination can be made using the following formula:

Average Yield Per Acre/Unit x Average Commodity/Unit Price x Total Acres for Production of Commodity/Units = **Annual Income**~~Income Capability~~

d. The parcel is a minimum of 40 acres in size. (SMA Only)

6. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in criterion 7 below. Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.– (GMA & SMA)

7. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel: (GMA & SMA)

a. Parcels less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

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

8. A single family dwelling for an agricultural operator's relative subject to the following standards: (GMA Only)

a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch.— Relative means grandparent, grandchild, parent, child, brother or sister of the agricultural operator;

b. The dwelling would be located on the same lot or parcel as the dwelling of the principal operator; and

c. The operation is a commercial enterprise as determined by an evaluation of criterion D(5)(c) above.

9. Agricultural labor housing subject to the following standards (GMA & SMA):

a. The proposed housing is necessary and accessory to a current agricultural use as evidenced by the submittal of a Farm Management Plan, defined in Section 1.200, with the application;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months.

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

d. The operation is a commercial enterprise as determined by an evaluation of criterion D(5)(c) above

e. There is an existing dwelling on the parcel.

10. Life Estate - A landowner who sells or otherwise transfers real property in an area designated Large Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a lot/parcel as defined in this Ordinance. A second dwelling in conjunction with agricultural use may be allowed subject to the following standards: (GMA Only)

a. The proposed dwelling is in conjunction with agricultural use, as defined, subject to the following standards:

(1) There are no other dwellings on the subject farm or ranch, including all of its constituent lots/parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;

(2) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy 5(c)(3) above; and

(3) The operation is a commercial agricultural enterprise as determined by an evaluation of criterion D(5)(c) above.

b. Upon termination of the Life Estate, the original or second dwelling shall be removed.

11. A second single family dwelling customarily provided in conjunction with agricultural use, as defined, when the new dwelling would be used for the primary residence instead of the existing dwelling that is listed in the National Register of Historic Places, or is eligible for inclusion in the Register as determined using the criteria listed in Sections 14.500 and 14.510, Cultural

Resources. (GMA Only)

12. A single family dwelling not in conjunction with agricultural use on a lot/parcel that was legally created prior to November 17, 1986, subject to the following standards: (GMA Only)

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

b. The subject lot/parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the tract. Size alone shall not be used to determine whether a lot/parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject lot/parcel to be utilized in conjunction with other agricultural operations in the area;

c. The dwelling shall be setback from any abutting parcel designated Forest as required in 3.140(G), Property Development Standards for the Large Scale Forest zone.

d. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Agriculture or Forest;

e. Request has been made to the County Assessor to disqualify the parcel for special assessment under ORS 308A.315, or 321.839 and that said disqualification is completed prior to the final approval of the non-farm dwelling.

13. The temporary use of a **manufactured** ~~mobile~~ home **or dwelling structure** in the case of a family hardship, subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permit. (GMA & SMA). In the SMA, the property must be 40 acres or greater.

14. One dwelling on a lot/parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling shall be necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following (SMA Only):

a. The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

b. The subject parcel has been enrolled in the appropriate state's forest assessment program.

c. A plan for management of the parcel has been approved by the Oregon Department of Forestry or Wasco County. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and

expenses; and how the dwelling will contribute towards the successful management of the property.

d. There are no other dwellings on the parcel which are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

e. A declaration has been signed by the landowner and recorded into County deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

MISCELLANEOUS USE

15. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building. (GMA & SMA)

16. Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.– (GMA & SMA)

~~**17.** Construction, reconstruction, or modifications of roads not in conjunction with agriculture if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order. (GMA Only).~~

17. Resource Enhancement Projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources subject to the Resource Enhancement standards prescribed in Chapter 10: (GMA & SMA)

18. Uninhabitable structures associated with hunting and fishing operations. (GMA Only)

20. Towers and fire stations for forest fire protection. (GMA & SMA)

21. Docks and boathouses, subject to the standards below: (GMA & SMA)

a. New, private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New, private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

22. Exploration, development, and production of sand, gravel, or crushed rock subject to that material being used only for the construction, maintenance, or reconstruction of roads used to

manage or harvest commercial forest products on lands within the SMA. (SMA only)

23. Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100 and all other applicable provisions of Chapter 21.~~.~~(GMA & SMA)

24. Property line adjustments and Replats that would result in the potential to create additional parcels through subsequent land divisions subject to the property development standards listed in G below, Section 21.200 and all other applicable provisions of Chapter 21.– (GMA Only)

25. Temporary portable facility for the primary processing of forest products grown upon a parcel of land or contiguous land in the same ownership where the facility is to be located.– The facility shall be subject to the standards in Chapter 8, Temporary Use Permit, and be removed upon completion of the harvest operation. (SMA Only)

E. Uses Permitted Conditionally

The following uses and activities may be allowed with conditions on a legal parcel designated Large Scale Agriculture subject to Subsection G - Property Development Standards, Chapter 5 - Conditional Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FARM/FOREST USE

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

2. Wine **or cider** sales **and** ~~/~~tasting rooms, in conjunction with an on-site winery **or cidery**. (GMA Only)

3. Boarding of horses. Findings shall be made on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the documentation by the OSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within. (GMA Only)

4. Fruits and produce stands, upon a showing that: (GMA & SMA)

a. ~~Sales will be limited to agricultural products raised on the subject farm and other farms in the local region, and~~

a~~b~~**.** The stand complies with licensing requirements of the Food and Dairy Division of the Oregon Department of Agriculture.

5. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(GMA & SMA)

6. Fish hatcheries and aquaculture. (GMA & SMA)

7. Silvicultural nurseries. (SMA Only)

COMMERCIAL USE

8. Commercial Events, subject to Commercial Events standards prescribed in Chapter 20. (GMA Only)

9. Home occupations or cottage industry in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20. (GMA & SMA)

The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses. (SMA Only)

10. Bed and Breakfast Inns may be permitted in a lawfully established single family dwelling subject to the Bed and Breakfast Inn standards prescribed in Chapter 20 **and provided that the residence** (GMA & SMA)**:**

a. Is included in the National Register of Historic Places, or

b. Is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

11. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20 (GMA Only).

PUBLIC & QUASI-PUBLIC USE

12. Nonprofit resource-related environmental learning facility or nonprofit resource-related research facility. (GMA Only)

13. Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited. (SMA Only)

14. Expansion of existing school or place of worship. (GMA Only)

15. Community facilities and nonprofit facilities related to agricultural or forest resource management. (SMA Only)

16. Recreation Development, subject to Section 14.700. (GMA Only)

17. Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with Section 14.710. (SMA Only)

MISCELLANEOUS USE

18. Road and railroad construction and reconstruction. (SMA Only)

~~**19.** Construction, reconstruction, or modifications of roads not in conjunction with agriculture if not designated in the Adopted Wasco County Transportation System Plan or not designed and constructed as part of an approved, active development order. (GMA Only)~~

19. Construction, reconstruction, or modification of roads, ~~U~~utility facilities and railroads necessary for public service upon a showing that: (GMA & SMA)

a. There is no practicable alternative location with less adverse effect on the scenic, cultural, natural, recreational, agricultural or forest lands; and

b. The size is the minimum necessary to provide the service.

21. Personal-use airstrips including associated accessory structures such as a hangar. (GMA Only)

a. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

b. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.

22. Exploration, development and production of mineral and geothermal resources subject to the standards prescribed Chapter 10. (GMA Only)

23. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months. (GMA & SMA)

24. Disposal sites managed and operated by the Oregon Department of Transportation, or the Wasco County Public Works Department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to Disposal standards prescribed in Chapter 10. (GMA & SMA)

F. Prohibited Uses

1. Subdivisions, Cluster Developments, Industrial Uses.

2. All other uses not listed.

G. Property Development Standards

1. Property Size

a. The creation or alteration of a parcel shall be subject to the following standards:

Zone	Minimum Parcel Size	Minimum Parcel Width
A-1(40)	Forty (40) Acres	500’
A-1(60)	Sixty (60) Acres	500’
A-1(80)	Eighty (80) Acres	1,000’
A-1(160)	One Hundred Sixty (160) Acres	1,000’

b. In the SMA no land divisions will be allowed unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan. The provisions of Chapter 14 are not applicable.

2. General Setbacks - All structures, other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25’
Side Yard	25’
Rear Yard	40’

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

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

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

d. The necessary berming and/or planting shall be completed during the first phase of development and maintained in good condition.

e. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

f. A variance to the setback requirements may be made in accordance with Chapter 6, Variances.

4. Irrigation Ditch Setbacks: All dwellings and structures shall be located outside of the easement of any irrigation or water district. In the absence of an easement, all dwellings and structures shall be located a minimum of 50 feet from the centerline of irrigation ditches and pipelines which continue past the subject parcel to provide water to other property owners. Substandard setbacks must receive prior approval from the affected irrigation district. These setbacks do not apply to fences and signs. If the irrigation ditch meets the definition of a "stream", the natural resource provisions of Chapter 14 shall apply.

5. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

6. Height - Maximum height for all structures shall be thirty-five (35) feet unless further restricted in accordance with Chapter 14 - Scenic Area Review.

7. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

8. Parking - Off street parking shall be provided in accordance with Chapter 4.

H. Special Management Area

In addition to the standards and conditions listed in this section, and the applicable provisions of Chapter 14 - Scenic Area Review, the following standards apply to the agricultural lands in the Special Management Area:

1. If a standard or condition of this subsection is more restrictive than other subsections of this section, this subsection is controlling;

2. No new dwellings or other related major structures shall be permitted on parcels of land less than 40 contiguous acres;

3. The Forest Service shall, in collaboration with county and/or state regulatory agencies, review site plans for forest practices for compliance with SMA forest practice guidelines. The Forest Service review of the site plans shall include the following analysis:

a. Protection of the scenic resources: analysis of potential impacts, including cumulative effects, to scenic values as viewed from the key viewing areas.

b. Protection of the cultural resources: analysis of potential impacts to the cultural resources, including cumulative effects.

c. Protection of natural resources: analysis of potential impacts, including cumulative effects, to the natural resources.

d. Protection of the recreational resources: analysis of potential impacts to the recreational resources, including cumulative effects.

4. New commercial uses and developments other than commercial recreation, pursuant to recreational objectives and guidelines set forth in Chapter 4 Recreation Resources in the Columbia River Gorge National Scenic Area Management Plan, are not permitted in the Special Management Areas.

5. Clearing trees for new agricultural use is subject to the following additional standards:

a. A Stewardship Plan subject to criterion d below shall be submitted and deemed complete by the county and submitted to the Forest Service for review.

b. Clearing trees for new agricultural use shall be limited to 15 acres.

c. If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application in (d)(1-4) below and subject to criterion (i).

d. After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:

(1) Scenic Resource guidelines in Review Uses 6(d)(1) and (5) below.

(2) The applicable criteria in Section 14.510 Cultural Resources, Section 14.610 Natural Resources, and Section 14.710 Recreational Resources.

(3) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management

tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(4) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

e. The Forest Service shall send the review statement to the appropriate county planning office.— The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the county.

f. The county will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

g. The forest practice portion of the new agricultural use shall not be approved by the state forestry department or county until a decision on the new agricultural use is issued from the county.

h The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

i. New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially.— After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

6. Forest practices shall be subject to a Scenic Area Review and will require an application with the following:

a. The following additional application material

(1) Listed on recent aerial photo or detailed map:

(a) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain.– If more than one silvicultural prescription is to be used, code each on the photo.

(b) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.

(c) Road and structure construction and/or reconstruction location.

(d) Location of proposed rock or aggregate sources.

(e) Major skid trails, landings, and yarding corridors.

(f) Commercial firewood cutting areas.

(g) Protection measures for scenic, cultural, natural and recreation resources.

(2) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(3) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in d and e below.

(4) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(5) Road and structure construction and/or reconstruction design.

(6) Existing and proposed rock pit development plans.

(7) A discussion of slash disposal methods.

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

b. As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

c. Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements shall be provided:

(1) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(2) Describe the time frame and steps planned to reach the long term goals.

(3) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(a) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(b) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(c) Give a clear explanation how a deviation from the applicable guidelines may better

achieve forest health objectives.

(d) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(4) For clearing trees for new agricultural use, the following shall be addressed in addition to (c)(1) & (2) above:

(a) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(b) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in 5(d)(1) through (4) above.

(c) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(d) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

d. For forest practices, the following scenic resource guidelines shall apply:

(1) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone.

(2) Created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in (e) below.

(3) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in (e) below.

(4) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table below.

(a) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

(b) If the Stewardship Plan proves that the above criterion is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(5) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

e. Forest practices shall maintain the following in addition to applicable natural resources criteria in Section 14.610:

(1) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements.– Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(2) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under d(5) above.

(3) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(4) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

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

Ponderosa Pine/ Oregon Oak	25-60% canopy closure Understory layer greater than 25% of total cc.	Most natural openings due to poor soil. Disturbance openings few	Openings less than 1 acre Openings have 0 - 25% canopy closure Openings widely dispersed	1 -10%	1 - 10% (% by vegetation type)	No leave trees required	1 - 3 pieces greater than 20" dbh	5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh Oak snags can be counted if already dead or partially dead

 # Map available at the Forest Service National Scenic Area Office

*** Does not apply to openings.**

Dbh: Diameter at Breast Height

SECTION 3.130 "A-2" Small Scale Agriculture Zone (GMA Only)

A. Purpose
The purpose of the Small Scale Agriculture Zone is to protect and enhance small scale agricultural land for agricultural uses. Small Scale Agricultural lands generally:

1. Have little potential for consolidation with large-scale agricultural lands and are currently devoted to agriculture of a scale too small to support workers or provide a significant volume of products for markets or processors; and

2. Have a combination of soil capability and size that provides an opportunity for direct marketing or part-time/second income agriculture.

B. Uses Permitted Without Review
The uses and activities listed in Section 3.100 may be allowed without review on lands designated Small-Scale Agriculture.

C. Uses Permitted Subject To Expedited Review
The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Small-Scale Agriculture subject to Expedited Review and Subsection G - Property Development Standards and Chapter 11 - Fire Safety Standards as well as all other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.**

D. Uses Permitted Subject to Review
The following uses and activities may be allowed on a legal parcel designated Small Scale Agriculture subject to the Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.**

FARM USE

1. New cultivation: Any operation that would cultivate land that has not been cultivated **upon demonstration that the landowner has sufficient water to support the use.**

2. Agricultural structures~~, except buildings,~~ in conjunction with agricultural use**, including new cultivation**. Non commercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

3. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the following standards:

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.— The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application:

RESIDENTIAL USE

4. One single-family dwelling on any legally **created and** existing parcel.

5. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 6 below.— ~~Non commercial~~**Noncommercial** wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

6. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any parcel:

a. Less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

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

7. The temporary use of a ~~mobile~~ **manufactured** home in the case of a family hardship, subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permits.

8. Agricultural labor housing subject to the following standards**:**

a. The proposed housing is necessary and accessory to a current agricultural use as evidenced by the submittal of a Farm Management Plan, defined in Section 1.200, with the application;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months.

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

9. Life Estate - A landowner who sells or otherwise transfers real property in an area designated Small Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a lot/parcel as defined in this Ordinance. A second dwelling in conjunction with agricultural use may be allowed subject to the following standards:

a. The proposed dwelling is in conjunction with agricultural use, as defined, subject to the following standards:

(1) There are no other dwellings on the subject farm or ranch, including all of its constituent lots/parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;

(2) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy (3)(c) below; and

(3) The operation is a commercial agricultural enterprise as determined by the submittal of a Farm Management Plan, defined in Section 1.200, with the application and an evaluation of the following factors:

(a) Size of the entire unit, including all land in the same ownership;

(b) Operational requirements for the particular agricultural activity common to area agricultural operations; and

(c) The farm or ranch, and all its constituent parcels, **must produce** ~~is capable of producing~~ at least $**8**~~4~~0,000 in gross annual income **in 2020 dollars.** **This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each** ~~year.This~~**year. This** determination can be made using the following formula:

Average Yield Per Acre/Unit x Average Commodity/Unit Price x Total Acres for Production of Commodity/Units = **Annual Income**~~Income Capability~~

b. Upon termination of the Life Estate, the original or second dwelling shall be removed.

MISCELLANEOUS USE

10. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

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

12. Construction, reconstruction, or modifications of roads not in conjunction with agriculture if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order.

13. Resource Enhancement Projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject Resource Enhancement standards prescribed in Chapter 10.

14. Uninhabitable structures associated with hunting and fishing operations.

15. Towers and fire stations for forest fire protection when necessary for public service

16. Docks and boathouses, subject to the standards below:

a. New private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

17. Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100, and all other applicable provisions of Chapter 21.

18. Property line adjustments and Replats that would result in the potential to create additional parcels through subsequent land divisions subject to the property development standards listed in G below, Section 21.200, and all other applicable provisions of Chapter 21.

E. Uses Permitted Conditionally

The following uses and activities may be allowed with conditions on a legal parcel designated Small Scale Agriculture subject to Subsection G - Property Development Standards, Chapter 5 – Conditional Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FARM/FOREST USE

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

2. Wine **or cider** sales **and** ~~/~~tasting rooms, in conjunction with an on-site winery **or cidery**.

3. Boarding of horses.~~–~~ Findings shall be made on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the documentation by the OSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within.

4. Fruits and produce stands, upon a showing that:

~~**a.** Sales will be limited to agricultural products raised on the subject farm and other farms in the local region, and~~

b. The stand complies with licensing requirements of the Food and Dairy Division of the Oregon Department of Agriculture.

5. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

6. Fish hatcheries and Aquaculture.

COMMERCIAL USE

7. Commercial events, subject to the Commercial Events standards prescribed in Chapter 20.

8. Home occupations ~~or cottage industry~~ in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20.

9. Bed and Breakfast Inns may be permitted in a lawfully established single family dwelling subject to the Bed and Breakfast Inn standards prescribed in Chapter 20.

10. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20 (GMA Only).

11. Commercial events in conjunction with an on-site wine or cider sales and tasting room, commercial use, or dwelling listed in the National Register of Historic Places.

PUBLIC & QUASI-PUBLIC USE

12. Nonprofit resource-related environmental learning facility or nonprofit resource-related research facility.

13. Recreation Development subject to Section 14.700.

14. Expansion of existing school or place of worship.

MISCELLANOUS USE

15. Utility facilities and railroads necessary for public service upon a showing that:

a. There is no practicable alternative location with less adverse effect on agricultural or forest lands; and

b. the size is the minimum necessary to provide the service.

16. Personal-use airstrips including associated accessory structures such as a hangar.

a. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

b. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.

17. Exploration, development and production of mineral and geothermal resources subject to the standards prescribed in Chapter 10.

18. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.

~~**18.** Cluster developments on lots or parcels forty (40) acres in size or larger in the "A-2(20)" zone, eighty (80) acres in size or larger in the "A-2(40)" zone, or one- hundred sixty acres in size or larger in the "A-2(80)" zone, that creates lots/parcels smaller than the designated minimum lot/parcel size, subject to the provisions of Chapter 18.~~

19. Disposal sites managed and operated by the Oregon Department of Transportation, or the Wasco County Public Works Department for earth materials and any intermixed vegetation

generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to the Disposal standards prescribed in Chapter 10.

20. Construction, reconstruction, or modifications of roads not in conjunction with agriculture if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order.

F. Prohibited Uses

1. Industrial Uses.

2. All other uses not listed.

G. Property Development Standards

1. Property Size - The creation or alteration of a parcel shall be subject to the following standards:

Zone	Minimum Parcel Size	Minimum Parcel Width
A-2(20)	Twenty (20) Acres	500’
A-2(40)	Forty (40) Acres	500’
A-2(60)	Sixty (60) Acres	500’
A-2(80)	Eighty (80) Acres	1,000’

2. General Setbacks - All structures other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25’
Side Yard	25’
Rear Yard	40’

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

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

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

dc. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

ed. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

fe. A variance to the setback requirements may be made in accordance with Chapter 6.

4. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

5. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

6. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

7. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.140 "F-1" Industrial Forest Zone (GMA Only)

A. Purpose

The purpose of the Industrial-Forest Zone is to protect and enhance Industrial forest land for forest uses. Industrial forest land is land that:

1. Contains land in the industrial and public ownership classes which occur in large tracts, have few residences and are generally bounded by other lands in the same ownership classes or by lands in the large woodland class.

2. Contains land in the non-industrial ownership class which have few residences, no organized structural fire protection services, are capable of growing 85 cubic feet per acre per year or more of merchantable tree species and are generally bounded by lands in the large non-industrial, public or industrial ownership classes.

B. Uses Permitted Without Review

The uses and activities listed in Section 3.100 may be allowed without review on lands designated Industrial Forest.

C. Uses Permitted Subject To Expedited Review

The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Industrial Forest subject to Expedited Review and Subsection G - Property Development Standards and Chapter 11 - Fire Safety Standards, as well as all other listed or referenced standards

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Industrial Forest subject to Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FOREST/FARM USE

1. New cultivation: Any operation that would cultivate land that has not been cultivated.

2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. The structure shall be subject to the standards in Chapter 8, Temporary Use Permit. An "auxiliary" use or structure shall meet the following standards:

a. The use or alteration of a structure or land provides help to or is directly associated with the conduct of a particular forest practice.

b. The auxiliary structure is located on-site, is temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting.

c. The auxiliary use is removed when a particular forest practice has concluded.

3. Temporary portable facility for the primary processing of forest products grown upon a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be subject to the standards in Chapter 8, Temporary Use Permit, and be removed upon completion of the harvest operation.

4. Agricultural structures, except buildings, in conjunction with agricultural use**, including new cultivation, subject to the "Approval Criteria for Fire Protection"**. Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

5. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years and subject to the following:

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use. The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application:

6. A temporary mobile home in conjunction with a timber operation subject to a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forest land from fire. The mobile home shall be subject to the standards in Chapter 8, Temporary Use Permit, and must be removed upon completion of the subject harvest operation or the end of the fire season.

RESIDENTIAL USE

~~**7.** One single family dwelling customarily provided in conjunction with agricultural use, as defined, subject to the following standards:~~

~~**a.** There are no other dwellings on the subject farm or ranch, including all of its constituent lots/parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;~~

~~**b.** The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy (c)(4) below; and~~

~~**c.** The operation is a commercial agricultural enterprise as determined by the submittal of a Farm Management Plan defined in Section 1.200 and an evaluation of the following factors:~~

~~**(1)** Size of the entire unit including all land in the same ownership.~~

~~(2) Type(s) of operation (crops, livestock) and acreage;~~

~~(3) Operational requirements for the particular agricultural activity common to area agricultural operations; and~~

~~(4) The farm or ranch, and all its constituent parcels, is capable of producing at least $40,000 in gross annual income. This determination can be made using the following formula:~~

~~Average Yield Per Acre/Unit x Average Commodity/Unit Price x Total Acres for Production of Commodity/Units = Income Capability~~

~~8~~**7.** Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 9 below. Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

8~~9~~**.** Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel:

a. Less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

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

9~~10~~**.** The temporary use of a ~~mobile~~ **manufactured** home in the case of a family hardship subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permit.

~~11. A second single family dwelling for an agricultural operator's relative subject to the following~~

~~standards:~~

~~a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister of the agricultural operator;~~

~~b. The dwelling would be located on the same lot or parcel as the dwelling of the principal operator; and~~

~~c. The operation is a commercial agricultural enterprise as determined by and an evaluation of criterion D(7)(c) above.~~

10~~2~~. Agricultural labor housing subject to the following standards:

a. The proposed housing is necessary and accessory to a current agricultural use **on the subject farm** as evidenced by the submittal of a Farm Management Plan, defined in Section 1.200, with the application;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months.

c. The housing will be located to minimize the conversion of lands capable of production of farm crops, livestock, or forest products and will not force a significant change in or significantly increase the cost of accepted agricultural or forest practices employed on nearby lands devoted to agricultural or forest use.

d. The operation is a commercial agricultural enterprise as determined by and an evaluation of criterion D(7)(c) above.

e. The housing is subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

~~13. Life Estate – A landowner who sells or otherwise transfers real property in an area designated Industrial Forest Land may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a lot/parcel as defined in this Ordinance. A second dwelling unit in a Forest Land designation may be allowed subject to the following standards.~~

~~a. The proposed dwelling is in conjunction with agricultural use using the standards prescribed in Subsection D(7);~~

~~b. Upon termination of the Life Estate, the original or second dwelling shall be removed.~~

11~~4~~. Driveways, easement roads, and private roads serving a residence.

MISCELLANEOUS

125. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

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

174. Resource Enhancement Projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the Resource Enhancement standards prescribed in Chapter 10.

158. Uninhabitable structures accessory to hunting and fishing operations.

169. Towers and fire stations for forest fire protection.

1720. Recreation Development, subject to Section 14.700.

218. Construction or reconstruction of roads or modifications not in conjunction with forest use or practices if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order.

2219. Docks and boathouses, subject to the standards below:

a. New private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

203. Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100, and all other applicable provisions of Chapter 21.

214. Property line adjustments and Replats that would result in the potential to create additional parcels through subsequent land divisions subject to the property development standards listed in G below, subject to 21.200 and all other applicable provisions of Chapter 21.

E. Uses Permitted Conditionally

The following uses and activities may be allowed with conditions on a legal parcel designated Industrial Forest subject to Subsection G - Property Development Standards, Chapter 5 – Conditional

Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FOREST/FARM USE

1. Wineries **and cideries,** in conjunction with on-site **vineyard or orchard**~~viticulture~~, upon a showing that processing of wine **or cider** is from **fruits harvested** ~~grapes grown~~ on the subject farm or in the local region.

2. Wine **or cider** sales **and** ~~/~~tasting rooms, in conjunction with an on-site winery **or cidery**.

3. Fruits and produce stands upon a showing that:

   a. ~~Sales will be limited to agricultural products raised on the subject farm and other farms in the local region, and~~

   ~~b.~~ The stand complies with licensing requirements of the Food and Dairy Division of the Oregon Department of Agriculture.

4. Agricultural product processing and packaging upon demonstration that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

5. Fish hatcheries and Aquaculture.

6. Boarding of horses. Findings shall be made on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the documentation by the OSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within.

COMMERCIAL USE

7. Home occupations or cottage industry in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20.

8. Bed and breakfast Inns may be permitted in a lawfully established single family dwelling subject to the Bed and Breakfast Inn standards prescribed in Chapter 20.

9. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20.

PUBLIC & QUASI-PUBLIC USE

10. Expansion of existing nonprofit group camps, retreats or conference or education centers.

11. Nonprofit, environmental learning or research facilities.

MISCELLANEOUS USE

12. Utility facilities and railroads necessary for public service upon a showing that:

a. There is no practicable alternative location with less adverse effect on the scenic, cultural, natural, recreational, agricultural or forest lands values; and

b. the size is the minimum necessary to provide the service.

13. Exploration, development and production of mineral and geothermal resources subject to the standards prescribed in Chapter 10.

14. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.

15. Disposal sites managed and operated by the Oregon Department of Transportation or the Wasco County Public Works Department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to the Disposal Standards prescribed in Chapter 10.

16. Construction, reconstruction, or modifications of roads not in conjunction with agriculture if not designated in the Adopted Wasco County Transportation System Plan or not designed and constructed as part of an approved, active development order.– (GMA Only)

F. Prohibited Uses

1. Subdivisions, Cluster Developments, Industrial Uses.

2. All other uses not listed.

G. Property Development Standards

1. Property Size – The creation or alteration of a parcel shall not result in a parcel less than eighty (80) acres and having less than a 1,000' minimum lot width.

2. Structure Siting Standards
The approval of new dwellings and accessory structures on Industrial Forest shall comply with the following standards:

a. The dwelling and structures shall be sited on the lot/parcel so that they shall have the least impact on nearby or adjoining forest operations.– Dwellings shall be set back at least two hundred (200) feet from adjacent properties unless they meet the requirements of criterion b below.

b. Clustering or locating proposed development closer to existing development, including roads, on adjacent lands may minimize the impact on nearby or adjacent forest operations and may be considered as an alternative to the two hundred (200) foot setback required in (a) above.

Dwellings and accessory buildings shall be setback at least fifty (50) feet from the right of way of the road unless the road is a Scenic Travel Corridor, in which case the provisions of Section 14.300 shall apply.

c. The amount of forest land used to site dwellings, structures, access roads and service corridors shall be minimized.— This can include locating new dwellings and structures as close to existing public roads as possible, thus minimizing the length of access roads and utility corridors; or locating the dwelling, access road and service corridors on portions of the lot/parcel that are least or poorly suited for forestry.— Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings and lastly, land productivity.

d. Dwellings shall be located to minimize the risks associated with wildfire.– Dwellings shall be located on level slopes when practical, and in any case not on slopes which exceed forty (40) percent.— Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire.— Dwellings should be located to make the access roads as short and flat as possible.

e. A variance to the Structure Siting Standards may be made in accordance with Chapter 6.

f. Agricultural Setbacks - All new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

(2) The planting of a continuous vegetative screen may be used to satisfy, in part, the

setback guidelines.— Trees shall be 6+ feet high when planted and reach an ultimate height of at least fifteen (15) feet.— The vegetation screen shall be planted along the appropriate lot/parcel line(s), and be continuous.

(3) The necessary berming and/or planting shall be completed during the first phase of development and maintained in good condition.

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

(5) A variance to the setback requirements may be made in accordance with Chapter 6.

3. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

4. Floodplain:— Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding– shall be subject to Section 3.240, Flood Hazard Overlay.

5. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

6. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.150 "F-3" Small Woodland Forest Zone (GMA Only)

A. Purpose

The purpose of the Small Woodland-Forest Zone is to protect and enhance Small Woodland forest land for forest uses. Small woodland forest land is land that contains land in the nonindustrial ownership class which occur in smaller tracts, have organized structural fire protection services, are capable of growing fifty (50) cubic feet per acre per year or more of merchantable tree species and are generally bounded by other lands in the same ownership class or lands devoted to nonforest use.

B. Uses Permitted Without Review

The uses and activities listed in Section 3.100 may be allowed without review on lands designated Small Woodland Forest.

C. Uses Permitted Subject To Expedited Review

The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Small Woodland Forest subject to Expedited Review and Subsection G -Property Development Standards and Chapter 11 - Fire Safety Standards, as well as all other listed or referenced standards

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Small Woodland Forest subject to Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FOREST/FARM USE

1. New cultivation: Any operation that would cultivate land that has not been cultivated.

2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. The structure shall be subject to the standards in Chapter 8, Temporary Use Permit. An "auxiliary" use or structure shall meet the following standards:

a. The use or alteration of a structure or land provides help to or is directly associated with the conduct of a particular forest practice.

b. The auxiliary structure is located on-site, is temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting.

c. The auxiliary use is removed when a particular forest practice has concluded.

3. Temporary portable facility for the primary processing of forest products grown upon a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be subject to the standards in Chapter 8, Temporary Use Permit, and be removed upon completion of the harvest operation.

4. Agricultural structures, except buildings, in conjunction with agricultural use**, including new**

cultivation, subject to the "Approval Criteria for Fire Protection". Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

5. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years and meet the following:

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use. The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application:

RESIDENTIAL USE

6. One (1) single family dwelling on a legally created **and existing** lot/parcel upon enrollment in the forest deferral taxation by the County Assessor's Office, or subject to findings that the lot/parcel cannot qualify for forest deferral taxation, a lot/parcel is entitled to one (1) single family dwelling. In either case, a declaration shall be signed by the land owner and recorded into County deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Forest or Agriculture.

7. One single family dwelling **on lands designated Small Woodland** customarily provided in conjunction with agricultural use, as defined, subject to the following standards:

a. There are no other dwellings on the subject farm or ranch, including all of its constituent lots/parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;

b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy (c)(4) below; and

c. The operation is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(1) Size of the entire unit, including all land in the same ownership;

(2) Type(s) of operation (crops, livestock) and acreage;

(3) Operational requirements for the particular agricultural activity common to area

agricultural operations; and

(4) The farm or ranch, and all its constituent parcels, **must produce**~~is capable of producing~~ at least $**8**~~4~~0,000 in gross annual income **in 2020 dollars**.~~—~~ **This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year.** This determination can be made using the following formula:

Average Yield Per Acre/Unit x Average Commodity/Unit Price x Total Acres for Production of Commodity/Units = **Annual Income**~~Income Capability~~

8. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 9 below. Noncommercial wind energy conversions systems which fit this category are subject to the applicable provisions of Chapter 19.

9. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any parcel:

a. Less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

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

10. The temporary use of a **manufactured** ~~mobile~~ home in the case of a family hardship, subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permit.

11. A second single family dwelling for an agricultural operator's relative subject to the following

standards:

a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister of the agricultural operator;

b. The dwelling would be located on the same lot or parcel as the dwelling of the principal operator; and

c. Criteria 7(c)(1) – (4) above.

12. Agricultural labor housing subject to the following standards:

a. The proposed housing is necessary and accessory to a current agricultural use as evidenced by the submittal of a Farm Management Plan, defined in Section 1.200, with the application;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months.

c. The housing will be located to minimize the conversion of lands capable of production of farm crops, livestock, or forest products and will not force a significant change in or significantly increase the cost of accepted agricultural or forest practices employed on nearby lands devoted to agricultural or forest use.

13. Life Estate - A landowner who sells or otherwise transfers real property in an area designated Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a lot/parcel as defined in this Ordinance. A second dwelling unit in a Forest Land designation may be allowed subject to the following standards.

a. The proposed dwelling is in conjunction with agricultural use using the standards prescribed in Subsection D(7); or

b. One (1) single family dwelling on a legally created lot/parcel upon enrollment in the forest deferral taxation by the County Assessor's Office, or subject to findings that the lot/parcel cannot qualify for forest deferral taxation, a lot/parcel is entitled to one (1) single family dwelling. In either case, a declaration shall be signed by the land owner and recorded into County deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Forest or Agriculture.

c. Upon termination of the Life Estate, the original or second dwelling shall be removed.

14. Driveways, easement roads, and private roads serving a residence.

MISCELLANEOUS USE

15. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

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

17. Resource Enhancement Projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the Resource Enhancement standards prescribed in Chapter 10.

18. Uninhabitable structures accessory to hunting and fishing operations.

19. Towers and fire stations for forest fire protection.

20. Recreation development, subject to Section 14.700 and the Recreation Development Plan.

21. Construction or reconstruction of roads or modifications not in conjunction with forest use or practices if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order.

22. Docks and boathouses, subject to the standards below:

a. New, private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New, private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

23. Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100 and all other applicable provisions of Chapter 21.

24. Property line adjustments and Replats that would result in the potential to create additional parcels through subsequent land divisions subject to the property development standards listed in G below, Section 21.200, and all other applicable provisions of Chapter 21.

E. Uses Permitted Conditionally

The following uses and activities may be allowed with conditions on a legal parcel designated Small

Woodland subject to Subsection G - Property Development Standards, Chapter 5 – Conditional Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FOREST/FARM USE

1. Wineries **and cideries**, in conjunction with on-site viticulture upon a showing that processing of wine is from grapes grown on the subject farm or in the location region.

2. Wine **or cider** sales/tasting rooms, in conjunction with an on-site winery.

3. Fruits and produce stands, upon a showing that:

   ~~a. Sales will be limited to agricultural products raised on the subject farm and other farms in the local region, and~~

   ~~b~~**a.** The stand complies with licensing requirements of the Food and Dairy Division of the Oregon Department of Agriculture.

4. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

5. Fish hatcheries and Aquaculture.

6. Boarding of horses. Findings shall be made on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the documentation by the OSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within.

COMMERCIAL USE

7. Commercial Events, subject to Commercial Events standards prescribed in Chapter 20.

8. Home occupations or cottage industry in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20.

9. Bed and breakfast Inns may be permitted in a lawfully established single family dwelling subject to the Bed and Breakfast Inn standards prescribed in Chapter 20.

10. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20.

PUBLIC & QUASI-PUBLIC USE

11. Expansion of existing nonprofit group camps, retreats, or conference centers.

12. Nonprofit resource-related environmental learning facility or nonprofit resource-related research facilities.

MISCELLANEOUS USE

13. Utility facilities and railroads necessary for public service upon a showing that:

a. There is no practicable alternative location with less adverse effect on scenic, cultural, natural or recreation resources, agricultural lands, or forest lands; and

b. the size is the minimum necessary to provide the service.

14. Exploration, development and production of mineral and geothermal resources subject to the standards prescribed in Chapter 10.

15. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.

16. ~~Cluster developments on lots or parcels forty (40) acres in size or larger in the "F-3(20)" zone, eighty (80) acres in size or larger in the "F-3(40)" zone, or one-hundred sixty acres in size or larger in the "F-3(80)" zone, that creates lots/parcels smaller than the designated minimum lot/parcel size, subject to the provisions of Chapter 18.~~

~~17.~~ Disposal sites managed and operated by the Oregon Department of Transportation, or the Wasco County Public Works Department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to Disposal standards prescribed in Chapter 10.

1~~8~~**7.** Construction, reconstruction, or modifications of roads not in conjunction with forest use or practices if not designated in the Adopted Wasco County Transportation System Plan or not designed and constructed as part of an approved, active development order .– (GMA Only)

F. Prohibited Uses

1. ———All other uses not listed.

G. Property Development Standards

1. Property Size - The creation or alteration of a parcel shall be subject to the following standards:

Zone	Minimum Parcel Size	Minimum Parcel Width
F-3(20)	Twenty (20) Acres	500’
F-3(40)	Forty (40) Acres	500’

F-3(80)	Eighty (80) Acres	1,000'

2. Structure Siting Standards
The approval of new dwellings and accessory structures on Small Woodland lands shall comply with the following standards:

a. The dwelling and structures shall be sited on the lot/parcel so that they shall have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least two hundred (200) feet from adjacent properties unless they meet the requirements of criterion b below.

b. Clustering or locating proposed development closer to existing development, including roads, on adjacent lands may minimize the impact on nearby or adjacent forest operations and may be considered as an alternative to the two hundred (200) foot setback required in criterion a above.

Dwellings and accessory buildings shall be setback at least fifty (50) feet from the right of way of the road unless the road is a Scenic Travel Corridor, in which case the provisions of Section 14.300 shall apply.

c. ~~Developments subject to Chapter 18 Cluster Development siting standards may be granted a variance to the two hundred (200) foot setback in order to best protect the scenic, natural, cultural and recreational resources of a site in accordance with Chapter 6.~~

~~d.~~ The amount of forest land used to site dwellings, structures, access roads and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thus minimizing the length of access roads and utility corridors; or locating the dwelling, access road and service corridors on portions of the lot/parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings and lastly, land productivity.

~~e~~**d.** Dwellings shall be located to minimize the risks associated with wildfire. Dwellings shall be located on level slopes when practical, and in any case not on slopes which exceed forty (40) percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

~~f~~**e.** A variance to the Structure Siting Standards may be made in accordance with Chapter 6.

~~g~~**f.** Agricultural Setbacks - All new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier

Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

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

(3) The necessary berming and/or planting shall be completed during the first phase of development and maintained in good condition.

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

(5) A variance to the setback requirements may be made in accordance with Chapter 6, Variances.

3. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

4. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

5. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

6. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.160 "R-R" Rural Residential Zone (GMA & SMA)

A. Purpose

Residential development may locate outside Urban Areas so long as it does not adversely affect the scenic, cultural, natural and recreation resources. In addition to consideration of these factors, lands may be designated as residential if deemed suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities.

B. Uses Permitted Without Review

The uses and activities listed in Section 3.100 may be allowed without review on lands designated Residential. (GMA & SMA)

C. Uses Permitted Subject To Expedited Review

The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Residential subject to Expedited Review and subsection G - Property Development Standards and Chapter 11 - Fire Safety Standards, as well as all other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.** (GMA & SMA)

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Residential subject to Subsection G - Property Development Standards, Chapter 11 – Fire Safety Standards & Chapter 14 - Scenic Area Review**,** as well as any other listed or referenced standards. **Firewise standards shall also be provided to the landowner at the time of application.**

RESIDENTIAL USE

1. One (1) single family dwelling per legally created lot/parcel. (GMA Only)

2. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in criterion 3 below. Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19. (GMA & SMA)

3. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards: (GMA & SMA)

a. The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed 24 feet.

4. The temporary use of a **manufactured** ~~mobile~~ home in the case of a family hardship, subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permit. (GMA &

SMA)

Parcel must be 40 acres or greater.– (SMA only)

FARM USE

5. New cultivation in the GMA and SMA, or new agricultural use in the SMA outside of previously disturbed and regularly worked fields or areas.

Clearing trees for new agricultural use is subject to 3.120(D)(1) of the Large Scale Agriculture zone. (SMA Only).

6. Agricultural structures~~, except buildings,~~ in conjunction with agricultural use**, including new cultivation**. Noncommercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19. (GMA Only)

7. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the following standards:

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.– The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application. (GMA Only)

MISCELLANEOUS USE

8. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.– (GMA & SMA)

9. Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.– (GMA & SMA)

10. Construction, reconstruction or modification of roads if designated in the Adopted Wasco County Transportation System Plan or designed and constructed as part of an approved, active development order (GMA & SMA) and railroads (SMA Only).

11. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, Resource Enhancement standards prescribed in Chapter 10. (GMA & SMA)

12. Docks and boathouses, subject to the standards below: (GMA & SMA)

a. New, private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New, private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

~~**13.** Cluster developments on lots or parcels ten (10) acres in size or larger in the "R-R(5)", or twenty (20) acres in size or larger in the "R-R(10)" zone, that create lots/parcels smaller than the designated minimum lot/parcel size, subject to the provisions of Chapter 18. (GMA Only)~~

13~~4~~**.** Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100 and all other applicable provisions of Chapter 21. (GMA & SMA)

14~~5~~**.** Property line adjustments and Replats that would result in the potential to create additional parcels through subsequent land divisions subject to the property development standards listed in G below, Section 21.100 and all applicable provisions of Chapter 21. (GMA Only)

15~~6~~**.** Forest Practices subject to 3.120(D)(2) of the Large Scale Agriculture zone. (SMA Only)

E. Uses Permitted Conditionally

The following uses and activities may be allowed with conditions on a legal parcel designated Residential subject to Subsection G - Property Development Standards, Chapter 5 - Conditional Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

FARM USE

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

2. ~~**2.**~~ Wine **or cider** sales **and**~~/~~tasting rooms in conjunction with an on-site winery **or cidery**, under the following conditions:~~–~~ (GMA Only)

a. The use shall comply with the criteria in Chapter 20 for Home Occupations ~~and Cottage Industries~~ as well as the following:

(1) The use may employ an unlimited number of outside employees.

(2) The wine **or cider** sales/tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.

(3) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine sales/tasting room.

(4) The exterior space may be a veranda, patio, or other similar type of structure.

COMMERCIAL USE

3. ~~3.~~ Commercial events, subject to the Commercial Events standards prescribed in Chapter 20. (GMA Only)

4. Home occupations ~~or cottage industry~~ in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20. (GMA & SMA)

5. Bed and Breakfast Inns~~,~~ may be permitted in a lawfully established single-family dwelling located **on lands designated 5 acre or 10 acre residential** subject to the Bed and Breakfast Inn standards prescribed in Chapter 20. (GMA & SMA)

6. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20 (GMA Only).

7. Accredited child care center within a RR-1 or RR-2 designation.— A child care center may be permitted in other Residential designations within an existing church or community building. (GMA Only)

8. Boarding of horses on lands designated 10-acre Residential.– Findings shall be made on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the documentation by the OSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within.

PUBLIC & QUASI-PUBLIC USE

9. School within an existing church or community building. (GMA Only)

10. Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991. (GMA Only)

11. Community parks and playgrounds, consistent with the standards of the National Park and Recreation Society regarding the need for such facilities. (GMA & SMA)

12. Recreation development, subject to Section 14.300. (GMA Only)

13. Fire stations. (GMA & SMA)

MISCELLANEOUS USE

14. Construction and reconstruction of roads, ~~U~~utility facilities and railroads.– (GMA & SMA)

15. Construction, reconstruction, or modifications of roads not in conjunction with agriculture if not designated in the Adopted Wasco County Transportation System Plan or not designed and constructed as part of an approved, active development order.– (GMA Only)

F. Prohibited Uses

All other uses not listed.

G. Property Development Standards

1. Property Size

a. The creation or alteration of a parcel shall be subject to the following standards:

Zone	Minimum Parcel Size	Minimum Parcel Width
R-R(1)	One (1) Acre	125’
R-R(2)	Two (2) Acres	125’
R-R(5)	Five (5) Acres	300’
R-R(10)	Ten (10) Acres	330’

b. In the SMA no land divisions are permitted unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.– The provisions of Chapter 14 are not applicable.

2. General Setbacks - all structures other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25’
Interior Side Yard	15’
Exterior Side Yard	20’
Rear Yard	20’

3. All new structures to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use shall comply with the following setback standards:

Adjacent Use	Open or	Natural or Created	8 foot Berm or

	Fenced	Vegetation Barrier	Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

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

c. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

d. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

e. A variance to the setback requirements may be made in accordance with Chapter 6.

4. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

5. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

6. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

7. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.170 – "PR" – Public Recreation Zone (GMA & SMA)

A. Purpose
To protect and enhance opportunities for publicly-owned, moderate and high intensity resource-based recreation uses on lands most suitable for such uses.

B. Uses Permitted Without Review
The uses and activities listed in Section 3.100 may be allowed without review on lands designated Public Recreation. (GMA & SMA)

C. Uses Permitted Subject To Expedited Review
The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Public Recreation subject to Expedited Review and Subsections H - Property Development Standards and Chapter 11 - Fire Safety Standards, as well as all other listed or referenced standards. (GMA & SMA)

D. Uses Permitted Subject to Review
The following uses and activities may be allowed on a legal parcel designated Public Recreation, subject to Subsection H - Property Development Standards, Chapter 11 - Fire Protection Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards. – (GMA & SMA)

1. Publicly-owned, resource based recreation uses, as defined, subject to Section 14.700 (GMA Only).

2. Commercial uses and non-resource based recreation uses which are part of an existing or approved resource-based public recreation use consistent with the criteria for such uses contained in this section. – (GMA Only)

3. New cultivation in the GMA and SMA, or new agricultural use in the SMA outside of previously disturbed and regularly worked fields or areas.

Clearing trees for new agricultural use is subject to the 3.120(I)(5), Large Scale Agriculture Zone. (SMA Only)

E. Uses Permitted Conditionally
The following uses and activities may be allowed with conditions on a legal parcel designated Public Recreation subject to Subsection G – Conditional Use Approval Standards, Subsection H - Property Development Standards, Chapter 5 - Conditional Use Review, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as any other listed or referenced standards.

RESIDENTIAL USE

1. Single Family Dwelling

a. GMA: The parcel must have been legally created prior to 15 October 1991. – Exceptions may be considered to the limitation of one dwelling only upon demonstration that more than one residence is necessary for management of a public park.

b. SMA:— The parcel must be 40 contiguous acres or larger and meet the standards required for a dwelling customarily provided in conjunction with an agricultural use in 3.120(D)(5), or a dwelling customarily provided in conjunction with a forest use in 3.120(D)(14), or show that it is necessary for public recreation site management purposes.

2. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in criterion 3 below. (GMA & SMA)

3. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:– (GMA & SMA)

a. The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed 24 feet.

4. On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a **manufactured** ~~mobile~~ home in the case of a family hardship, subject to the standards for hardship dwellings prescribed in Chapter 8, Temporary Use Permit.– (SMA Only)

5. Agricultural labor housing subject to the following standards (SMA Only):

a. The proposed housing is necessary and accessory to a current agricultural use as evidenced by the submittal of a Farm Management Plan, defined in Section 1.200, with the application;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit.— Seasonal use shall not exceed nine (9) months.

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

d. The operation is a commercial enterprise as determined by an evaluation of the following:

(1) Size of the entire unit, including all land in the same ownership;

(2) Type(s) of operation (crops, livestock) and acreage;

(3) Operational requirements for the particular agricultural activity common to area agricultural operations; and

(4) The farm or ranch, and all its constituent parcels, is capable of producing at least $~~4~~80,000 in gross annual income **in 2020 dollars**.— **This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year.**

This determination can be made using the following formula:— Average Yield Per Acre/Unit x Average Commodity/Unit Price x Total Acres for Production of Commodity/Units = **Annual Income**~~Income Capability~~

e. There is an existing dwelling on the parcel and the parcel is at least 40 acres. (SMA only)

FARM/FOREST USE

6. SMA Agricultural review uses only, as allowed for in Section 3.120, Large Scale Agricultural Zone, except D(7) - (Accessory Buildings), E(17) - (Public Recreation), and E(24)— - (ODOT Disposal Sites). (SMA Only)

7. Agricultural structures~~, except buildings,~~ in conjunction with agricultural use**, including new cultivation**.– (GMA & SMA)

8. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings".– (GMA & SMA)

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.— The applicants shall submit a floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock) as well as a Farm Management Plan defined in Section 1.200 with their land use application:

9.– Fruits and produce stands, upon a showing that:– (SMA Only)

a. Sales will be limited to agricultural products raised on the subject farm and other farms in the local region, and

b. The stand complies with licensing requirements of the Food and Dairy Division of the Oregon Department of Agriculture.

10. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation. "Primarily" means a clear majority of the product as measured by volume, weight, or value. (SMA Only)

11. Silvicultural nurseries.– (SMA Only)

12. Fish hatcheries and aquaculture.– (SMA Only)

13. Forest uses and practices as allowed on lands designated SMA Forest in the Management Plan (Part II, Chapter 2, SMA Guidelines), except SMA Forest Land review uses 1.I (public and commercial recreation), 1. L (accessory buildings), 1.M (accessory buildings), and 1.V (disposal sites). (SMA Only)

COMMERCIAL USE

14. Commercial Events, subject to the Commercial Events standards as prescribed in Chapter 20. (GMA Only)

15. Home occupations or cottage industry in existing residential or accessory structures subject to the Home Occupations ~~and Cottage Industries~~ standards prescribed in Chapter 20. (SMA Only)

16. Bed and Breakfast Inns, may be permitted in a lawfully established single family dwelling subject to the Bed and Breakfast Inn standards prescribed in Chapter 20 (SMA Only).

17. Special Uses in Historic Buildings subject to Special Uses in Historic Buildings standards prescribed in Chapter 20 (GMA Only).

PUBLIC & QUASI-PUBLIC USE

18. Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.– (SMA Only)

19. Community facilities and nonprofit facilities related to agricultural or forest resource management.– (SMA Only)

20. Public recreation facilities, consistent with the provisions of Section 14.710. (SMA Only)

21. Public Trails subject to Section 14.700 and 14.710.– (GMA & SMA)

MISCELLANEOUS USE

22. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.– (GMA & SMA)

23. Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.– (GMA & SMA)

24. Towers and fire stations for forest fire protection.– (SMA Only)

25. Docks and boathouses, subject to the standards below:– (GMA & SMA)

a. New, private docks and boathouses serving only one family and one property **may**~~shall~~ be allowed, up to 120 square feet in size;

b. New, private docks and boathouses serving more than one family and property **may**~~shall~~ be allowed, up to 200 square feet in size;

c. Public docks open and available for public use **may**~~shall~~ be allowed.

d. Boathouses may be allowed under criteria a and b above only when accessory to a dwelling and associated with a navigable river or lake.

26. Exploration, development, and production of sand, gravel, or crushed rock subject to that material being used only for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA– (SMA Only)

27. Road and railroad construction and reconstruction.– (SMA Only)

28. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months. (SMA Only)

29. Utility transmission, transportation, communications, and public works facilities for public service provided that: (GMA & SMA)

a. There is no alternative location with less adverse effect on Public Recreation land; and

b. The size is the minimum necessary to provide the service.

30. Temporary portable facility for the primary processing of forest products grown upon a parcel of land or contiguous land in the same ownership where the facility is to be located.– The facility shall be subject to the standards in Chapter 8, Temporary Use Permit, and be removed upon completion of the harvest operation. (SMA Only)

31. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject subject to the Resource Enhancement standards prescribed in Chapter 10. (GMA & SMA)

32. Land Divisions and Replats subject to the property development standards listed in H below, Section 21.100, and all other applicable provisions of Chapter 21. (GMA Only)

33. Property line adjustments and Replats subject to the property development standards listed in H below, Section 21.200, and all other applicable provisions of Chapter 21. (GMA Only)

F. Prohibited Uses

1. All other uses not listed.

G. Conditional Use Approval Standards (GMA Only)

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following limitations shall apply to a conditional use permitted in subsection D of this Section:

1. The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigative measures utilized to comply with this criterion may include provision of on-site buffers and seasonal or temporary closures during peak recreation use periods.

2. The proposed use will not permanently commit the majority of the site to a non-recreational use and will not remove all potential future resource-based public recreation uses. Careful siting and design of structures and other improvements may be utilized to comply with this criterion.

H. Property Development Standards

1. Property Size:

a. GMA: Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

b. SMA: No land divisions are allowed unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan. The provisions of Chapter 14 are not applicable.

2. General Setbacks - all structures other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25’
Interior Side Yard	15’
Exterior Side Yard	20’
Rear Yard	20’

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'

Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

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

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

c. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

d. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

e. A variance to the setback requirements may be made in accordance with Chapter 6.

4. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

5. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

6. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

7. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.180– "OS" Open Space Zone (GMA & SMA)

A. Purpose
Protect those most significant, sensitive and representative, scenic, cultural, natural and recreation resources on unimproved lands from conflicting uses and enhance them where appropriate.

B. Uses Permitted Without Review
The following uses and activities may be allowed without review on lands designated Open Space subject to the applicable property development standards.– (GMA & SMA)

1. 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.**

2. The following transportation facilities:

a. Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, as well as existing traffic detection devices, vehicle weighing devices, and signal boxes provided the replacement structures are:

(1) The same location and size as the existing structures and

(2) The same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or the 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 title "Scenic Travel Corridors

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

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

(1) The signs comply with the Manual for Uniform Traffic Control Devices and

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

d. Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are

(1) Located inside rights-of-way that have been disturbed in the past; and

(2) Constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

e. New guardrails and guardrail ends, provided the structures are

(1) Located inside rights-of-way that have been disturbed in the past and

(2) Constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." This category does not include jersey barriers.

f. Replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water ~~quality and fish~~**quality, fish,** and wildlife habitat before construction.– (GMA Only)

g. Replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.– (SMA Only)

h. Resurface or overlay existing paved roads, or grade and gravel existing road shoulders provided the activity does not:

(1) Increase the width of a road,

(2) Disturb the toe of adjacent embankments, slopes or cut banks, or

(3) Change existing structures or add new structures.

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

j. 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 or the substructure of bridges (e.g., foundations, abutments).

3. The following underground utility facilities:

a. 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.

b. Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided:

(1) No excavation would extend more than 12 inches beyond the depth and extent of the original excavation;

(2) No ditch for linear facilities would be more than 24 inches wide;

(3) No excavation for non-linear facilities would exceed 10 cubic yards, and;

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

4. The following aboveground and overhead utility facilities:

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

(1) The same location and size as the existing facilities and;

(2) The same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or the 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 title "Scenic Travel Corridors."

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

(1) Located within 5 feet of the original poles;

(2) No more than 5 feet taller and 6 inches wider than the original poles,

and;

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

c. 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.

5. The following signs:

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

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

c. 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*** ~~*for*~~ *Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

d. Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.

e. 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.

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

g. Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees). (GMA Only)

C. Uses Permitted Subject To Expedited Review

The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Open Space subject to Expedited Review and Subsection G - Property Development Standards, as well as all other listed or referenced standards

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Open Space subject to Chapter 14 - Scenic Area Review, Subsection G - Property Development Standards, as well as any

other listed or referenced standards.

1. Low-intensity recreation uses and developments (GMA & SMA), including educational and interpretive facilities (SMA Only) subject to Section 14.700 in the GMA and Section 14.710 in the SMA.

2. Repair, maintenance, operation, and improvement and expansion of existing serviceable structures, including roads, railroads, hydro facilities and utilities that provide sewer, transportation, electric, gas, water, telephone, telegraph, telecommunications. (GMA Only)

3. Changes in existing use, including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices. (SMA Only)

4. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to subject to the Resource Enhancement standards prescribed in Chapter 10. (GMA & SMA)

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

6. Land Divisions and Replats subject to the property development standards listed in G below, Section 21.100, and all other applicable provisions of Chapter 21. In the GMA land division will only be allowed to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (GMA & SMA)

7. Property line adjustments and Replats subject to the property development standards listed in G below, Section 21.200, and all other applicable provisions of Chapter 21. (GMA Only)

8. Utility facilities for public service, upon a showing that: (SMA Only)

   a. There is no alternative location with less adverse effect on Open Space land.

   b. The size is the minimum necessary to provide the service.

9. Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met: (SMA Only)

   a. Noxious weed infestation is new and eradication is still viable.

   b. Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:

      (1) Displacement of native and traditionally gathered plants;

      (2) Degradation of wildlife habitat and forage;

(3) Degradation or loss of agricultural uses of land, such as cropland or livestock forage;
(4) Limitation of recreational uses.

c. For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

10. For those areas designated Gorge Walls and Canyonlands - The following uses may be authorized: (GMA Only)

a. Livestock grazing;

b. Fish and wildlife management activities conducted by federal, tribal or state resource agencies;

c. Soil, water and vegetation activities performed in accordance with a conservation plan approved by a county conservation district;

d. Harvesting of wild crops;

e. Educational or scientific research;

f. Continued operation of existing quarries if determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources.

11. For those areas designated Chenoweth Table Natural Area - The following uses may be authorized: In addition to those above.– (GMA Only)

a. Low-intensity recreation, subject to the guidelines for Recreation Intensity Classes and after consultation with the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**;

b. Wildlife management activities conducted by federal, tribal or state resource agencies, after consultation with the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**;

c. Educational or scientific research, after consultation with the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

12. For that area designated Squally Point Natural Area - The following uses may be authorized:– In addition to those above.– (GMA Only)

a. Except in the upland dunes south of the railroad, low-intensity recreation, subject to the guidelines for the Recreation Intensity Classes and after consultation with the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**;

b. Repair and maintenance of railroads except measures to stabilize dunes, only after consultation with the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**;

c. Except as limited by Criterion 12(a), all those uses allowed in Section D, Uses Permitted Subject to Review above.

13. For those areas designated State Park Recreation Areas - The following uses may be authorized on those portions of state park ownerships not suitable for major recreation facilities: In addition to those above.– (GMA Only)

a. Fish and wildlife management activities conducted by federal, tribal or state resource agencies;

b. Soil, water or vegetation activities performed in accordance with a conservation plan approved by a local conservation district;

c. Harvesting of wild crops;

d. Educational or scientific research.

E. Special Management Area - Open Space

1. The primary managing agency for open space areas for the SMA shall prepare an open space management plan.— The management plan shall be completed prior to any new land uses or development, and shall be reviewed by the Forest Service.

2. The open space management plan shall include the following:

a. Direction for resource protection, enhancement, and management.

b. Review of existing uses to determine compatibility with open space values.

c. Consultation with members of the public, and agency and resource specialists.

3. Upon request, the Forest Service will help located mapped boundaries of Open Space areas in cases of new land uses or developments.

F. Prohibited Uses

All other uses not listed.

G. Property Development Standards

1. Property Size:

a. In the GMA there is no minimum property size.

c. In the SMA land divisions are prohibited unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.— The provisions of Chapter 14 are not applicable and there is no minimum parcel size.

2. General Setbacks - all structures other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25’
Interior Side Yard	15’
Exterior Side Yard	20’
Rear Yard	20’

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

a. Earth berms may be used to satisfy, in part, the setback guidelines.— The berm shall be a minimum of eight (8) feet in height, and contoured at 3 to 1 slopes to look natural.– Shrubs, trees and/or grasses shall be employed on the berm to control erosion and achieve a finished height of fifteen (15) feet.

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

c. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

d. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

e. A variance to the setback requirements may be made in accordance with Chapter 6.

4. Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.

5. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

6. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

7. Parking - Off street parking shall be provided in accordance with Chapter 4.

SECTION 3.190 – "AS" Agriculture Special Zone (GMA Only)

A. Purpose:

1. Ensure that new uses do not adversely affect natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources.

2. Encourage landowners to enhance those portions of natural areas that are in fair or poor condition.

B. Uses Permitted Without Review
The following activities and uses may be allowed on lands designated Agriculture-Special without review:

1. Existing livestock grazing. – A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.

2. Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

3. Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, bird watching, photography, horseback riding and hiking. – **Development associated with these low-intensity recreation uses is subject to review and is not allowed outright.**

4. Temporary livestock facilities, such as portable livestock pens and corrals.

5. New fences that exclude livestock from lands that are not part of an existing livestock operation.

C. Uses Permitted Subject To Expedited Review
The uses and activities listed in Section 3.110 may be allowed on a legal parcel designated Agriculture Special subject to Expedited Review and Subsections H - Property Development Standards and Chapter 11 - Fire Safety Standards, as well as all other listed or referenced standards.

D. Uses Permitted Conditionally
The following uses and activities may be allowed on a legal parcel designated Agricultural-Special subject to Chapter 5 - Conditional Use Review, Chapter 14 - Scenic Area Review, and Subsection D, Conditional Use Approval Standards, as well as any other listed or referenced standards.

1. New livestock grazing. – Any operation that would introduce livestock to land that has not been grazed, or has lain idle, for more than 5 years shall be considered new livestock grazing.

2. New fences, livestock watering facilities, and corrals.

3. Soil, water, and vegetation conservation uses.

4. Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

5. Fish and wildlife management uses, educational activities, and scientific research.

6. Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural or recreation resources.

7. Single family dwellings that are not in conjunction with agricultural use, if a land owner demonstrates that:

a. The dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and

b. The dwelling is sited and designed in a manner that minimizes adverse effects to the natural area.

c. All dwellings shall meet the following standards:

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

(2) The subject lot/parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the tract. Size alone shall not be used to determine whether a lot/parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject lot/parcel to be utilized in conjunction with other agricultural operations in the area;

(3) The dwelling shall be setback from any abutting parcel designated as Agriculture as required in the setback standards listed in 3.120(G), Large Scale Agriculture Zone. The dwelling shall be setback from any abutting parcel designated Forest as required setback standards in 3.140(G) Property Development Standards for the Industrial Forest zone.

(4) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Agriculture or Forest;

(5) All owners of land in areas designated Agriculture or Forest within five hundred (500) feet of the perimeter of the subject lot/parcel on which the dwelling is proposed to be located have been notified and given at least ten (10) days to comment prior to a decision;

(6) The County Assessor has been notified that the parcel is no longer being used as farmland; and

(7) Request has been made to the County Assessor to disqualify the parcel for special assessment under ORS 308.A.315, or 321.839;

(8) The lot or parcel on which the dwelling will be located has been legally created.

d. The buffer standards for dwellings may be varied according to Chapter 6, if the standards prevent the optimum siting of a dwelling for scenic, cultural, natural or recreational resources.

8. Recreation uses, subject to Section 14.510.

9. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

10. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to Section 10.100 (Resource Enhancement Projects). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

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

12. Property line adjustments, subject to Section 21.200 – (Property Line Adjustments).

D. Conditional Use Approval Standards

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following limitations shall apply to a conditional use permitted in Subsection C of this Section:

1. A range conservation plan is prepared in accordance with Subsection F, Range Conservation Plans before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; and soil, water and vegetation conservation activities are undertaken (Conditional Uses (C)(1),(2) and (3)). Range conservation plans are described below (see Subsection G, Range Conservation Plans).

2. The County shall submit all land use applications and range conservation plans to the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

a. The state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the County Planning Office.

b. The County shall record and address any written comments submitted by the state heritage program in its development review order.

3. Based on the comments from the state heritage program, the County shall make a final decision on

whether the proposed use is consistent with the Agriculture-Special standards. If the final decision contradicts the comments submitted by the state heritage program, the County shall justify how it reached an opposing conclusion.

E. Prohibited Uses:
Except for permitted and conditional uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

1. Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening the soil.

2. Removal or clearing of native grasses, shrubs, and trees.

3. Single family dwellings and accessory structures, other than non-agricultural dwellings allowed as a conditional use.

4. Barns, silos, and other agricultural buildings.

5. Irrigation systems.

6. Exploration, development, and production of mineral resources.

7. Utility facilities, public use facilities, and roads.

F. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.

G. Range Conservation Plans
If a range conservation plan is required as per subsection D of this section, before a use is allowed, the range conservation plan shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center** should be consulted while the plan is being prepared.

1. Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

a. Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.

b. Preserve native trees and shrubs.

c. Re-establish native grasses in degraded areas that have been invaded by non-native plants and weeds.

2. Range conservation plans shall include the following elements:

a. Range Inventory.— Existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

b. Rehabilitation Plan.– Actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

c. Livestock Management Plan.– Grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans should project livestock movements for at least three years.

d. Monitoring Program.— Track annual progress of the conservation plan and condition of the range.— Monitoring techniques shall be described, such as line transects or photographic plots.

SECTION 3.200 – Environmental Protection Districts

The purpose of the Environmental Protection District is to permit the regulation of environmental hazards, the qualification of lands for floodplain insurance programs and preferential taxation assessment, and the protection of the health, safety and welfare of residents of Wasco County. The specific intent of this district is:

A. To combine with present zoning requirements certain restrictions to promote the general health, welfare, and safety of the County.

B. To prevent the establishment of certain structures and land uses in areas unfit for human habitation because of the danger of flooding, unsanitary conditions, mass earth movement, unstable soils, or other hazards.

C. To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage.

D. To reduce the financial burden imposed on the public and governmental units by frequent and periodic flooding.

E. To permit certain uses which can be located on flood plains and which will not impede the flow of flood waters, or otherwise cause danger to life and property at, above, or below their locations within the flood plain.

F. To permit uses on lands subject to mass earth movement or unstable soils which will not increase the potential for environmental degradation.

G. To require that uses vulnerable to hazards, including public facilities which serve such uses be provided with protection at the time of initial construction.

H. To protect individuals, as much as possible through education and information from buying lands which are unsuited for intended purposes.

SECTION 3.210 – Divisions

This district consists of several overlay divisions that provide additional development standards or special processes for development in protected areas.

A. Division 1 – Flood hazard overlay

B. Division 2 – Geologic hazards overlay

SECTION 3.230 – Non-Liability Clause

The granting of approval of any structure or use shall not constitute a representation, guarantee or

warranty of any kind or nature by Wasco County, or the County Board of Commissioners, the Planning Commission, or by any officer or employee thereof, of the practicability or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

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SECTION 3.240– Division 1 – Flood Hazard Overlay

A. Background

1. Findings of Fact

a. The Areas of Special Flood Hazard of Wasco County are subject to periodic ~~inundation which~~**inundation that** results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base.– All of which adversely affects the public health, safety, and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in the areas of special flood hazard which increase flood heights and velocities, which may damage uses in other areas.– Uses that are inadequately protected from flood damage also contribute to the losses associated with the flood.

2. Statement of Purpose: It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by implementing provisions designed to:

a. Protect human life and health;

b. Minimize expenditure of public money for costly flood control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. Minimize prolonged business interruptions;

e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in areas of special flood hazard;

f. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. Ensure that potential buyers are notified that property is in an area of special flood hazard; and,

h. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

3. Methods of Reducing Flood Losses: In order to accomplish its purposes, this chapter includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and,

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

B. Applicability

1. Lands to which this Chapter Applies:

a. This chapter shall apply to all Areas of Special Flood Hazards within the jurisdiction of Wasco County.

b. Although Wasco County holds and utilizes the official Flood Insurance Rate Maps (FIRMs) supplied by FEMA, there is no Flood Insurance Study (FIS) for the County. This FIS typically provides the detailed information and cross sections necessary to establish the Base Flood Elevation in a given area. For that reason, the Area of Special Flood Hazard as shown on the FEMA FIRMs is only an approximation of the floodplain boundary. Without the FIS, the Director may require additional information to determine that a proposed development, which may appear to be located outside of an Area of Special Flood Hazard based on the FIRMs, is in fact reasonably safe from flooding as required by Section 3.242(B) – Duties and Responsibilities of the Planning Director. In a situation where the Director determines that it is unclear if a proposed development lies in or out of the Area of Special Flood Hazard, it shall be the responsibility of the applicant to provide the Base Flood Elevation for the property using FEMA approved methodologies.

2. Basis for Establishing the Areas of Special Flood Hazard:— The Areas of Special Flood Hazards identified by the Federal Insurance Administration on its Flood Insurance Rate Map (FIRM), dated September 24, 1984, and any revision thereto, is adopted by reference and declared to be a part of this Ordinance.– The Flood Insurance Rate Map is on file at the Wasco County Planning and Development Office.

3. Abrogation and Greater Restrictions:– This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.— However, where this chapter and another chapter, ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

C. Interpretation: In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and,

3. Deemed neither to limit nor repeal any other powers granted under State statutes and rules including state building codes.

D. Warning **a**~~A~~nd Disclaimer ~~O~~**o**f Liability:— The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations.– Larger floods can and will occur on rare occasions.– Flood heights may be increased by man-made or natural causes.– This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.– This chapter shall not create liability on the part of Wasco County, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

SECTION 3.241– Special Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The words or phrases found below only apply to this Chapter of the Land Use and Development Ordinance.

Area of Special flood hazard (ASFH) – The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.— Designation on maps always includes the letters A or V.

Appeal – A request for a review of the interpretation of any provision of this ordinance.

Base Flood – The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood".– Designation on maps always includes the letters A or V.

Base Flood Elevation (BFE) – The computed elevation to which floodwater is anticipated to rise during the Base Flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles.

The BFE is the regulatory requirement for the elevation or ~~floodproofing~~**flood proofing** of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

Basement – Any area of the building having its floor sub-grade (below ground level) on all sides.

Critical Facility – A facility where the potential for even minimal water damage might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire, and emergency response facilities, installations that produce, store or use hazardous materials or hazardous waste. (Approval of any new Critical Facility within the ASFH must be reviewed through the Administrative Variance provisions (Chapter 6) of the Wasco County Land Use and Development Ordinance.)

Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.
Development does not include low impact practices using hand based tools to perform habitat restoration activities, which **do not** result in**:**

- the potential destabilization and/or erosion of the designated floodplain by removal of bank stabilizing root systems or other means;
- alteration of the topography of the designated ASFH;
- the accumulation of woody vegetative debris within the ASFH;
- a violation of any prior condition of approval associated with a review on the subject property;
- a violation of any Wasco County or other agency natural resource regulations; or
- the siting of any structure.

Elevated Building (for Insurance Purposes) – A non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland or tidal waters and/or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study – The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Map, and the water surface elevation of the Base Flood.

Flood-Resistant Material – Any building product capable of withstanding direct and prolonged (at least 72 hours) contact with floodwaters without sustaining significant damage (any damage requiring more than low-cost cosmetic repair such as painting.)

Improvement or Repair Cost – The cost to improve or repair a structure. This is used to determine if the proposed repairs and / or improvements constitute Substantial Damage and / or Substantial Improvement.

Improvement or Repair Costs **include** but are not limited to structural elements, footings, concrete slabs, attached decks and porches, interior partition walls, wall finishes, windows, doors, roofing materials, flooring, sub-flooring, cabinets, utility equipment, and labor.

Improvement or Repair Costs **exclude** plans, surveys, permitting costs, post-emergency debris removal and clean-up, landscaping, sidewalks, fences, yard lights, pools, detached structures, and landscape irrigation systems.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 3.243(D) – Specific Standards.

Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" **does not** include a "recreational vehicle."

Manufactured Home Park or Subdivision – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Approval of any New or expansion of a manufactured home park or subdivision within the ASFH must be reviewed through the Administrative Variance provisions (Chapter 6) of the Wasco County Land Use and Development Ordinance.)

New Construction – Structures for which the lawful "start of construction" commenced on or after the effective June 1, 2010

Raised Structure – A non-basement structure that has its lowest elevated floor raised a minimum of one foot above the Base Flood Elevation.

Recreational Vehicle (Flood Hazard Overlay Section only) – A vehicle which is:

a. Built on a single chassis; and

b. 400 square feet or less when measured at the largest horizontal projection; and

c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Start of Construction – Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure (Flood Hazard Overlay Section only) – A walled and roofed building, as well as any gas or liquid storage tank, that is principally above ground.

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

a. Before the improvement or repair is started, or

b. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this **definition,** "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

b. any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance – A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance."

Water Dependent – A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations, including but not limited to bridges, docks, piers, wharfs, certain fish and wildlife structures, boat launch facilities and marinas. Dwellings, parking lots, spoil and dump sites, restaurants, trailer parks, resorts, and motels are not water dependent.

SECTION 3.242– Planning Director

A. Designation of the Planning Director
The Planning Director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

B. Duties and Responsibilities of the Planning Director
Duties of the Planning Director shall include, but not be limited to:

1. Review of Building Permits
Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 3.242(B)(4)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

2. Interpretation of ASFH Boundaries
Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

3. Development Permit Review

a. Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required. (added 4-87)

c. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the Special Flood Hazard Area. For the purposes of this

chapter, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

i. If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.

ii. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

4. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.240.B.2 – Basis for Establishing the Areas of Special Flood Hazard, the Planning Director shall require, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 3.243(D) – Specific Standards.

5. Alteration of Watercourses

a. Notify adjacent communities, Department of State Lands, Department of Land Conservation & Development, and the Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. Information to be Obtained and Maintained

a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.242(B)(4), obtain and record the actual (as-built) elevation (in relation to mean sea level) to the lowest floor (including basements and below grade crawl-spaces) of all new or substantially improved structures, and whether or not the structure contains a basement (Elevation Certificate).

b. Maintain for public inspection all records pertaining base flood elevations and flood-proofing certificates required in Section 3.242(B)(6).

c. Where base flood elevation data is changed via a restudy, limited map maintenance project, map revision amendment, those changes shall be obtained and recorded.

d. Submit any new or revised map information that could affect the ASFH to FEMA when it becomes available.

e. For all new or substantially improved flood proofed structures:

i. Obtain and record the actual elevation (in relation to mean sea level) to which the structure was flood proofed, and

ii. Maintain the flood proofing certifications required in Section 3.243(B) – Application Requirements.– (Added 4-87)

f. Maintain for public inspection all records and data pertaining to this chapter.

SECTION 3.243 Development Permit

A. Establishment of Development Permit

1. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.240(B) – Applicability. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

2. If the director determines that it is unclear if a proposed development lies in or out of the Area of Special Flood Hazard, then Establishment of the Development Permit shall be based on the following:

a. Within thirty (30) days of receiving an appropriate Land Use Application, the Director or the Director's designee shall conduct a site inspection on the proposed development. If during that site inspection, the Director is able to determine that the proposed development is reasonably safe from flooding based to topography or other pertinent data, then no ASFH Development Permit will be required.

b. If during the above mentioned site inspection, the Director cannot determine that the proposed development is reasonably safe from flooding, then the applicant will be required to establish the Base Flood Elevation for the Development using FEMA approved methodologies. Appropriate methodologies may include HEC, SMADA, SWWM, QUICK-2, or other FEMA approved hydraulic or hydrologic modeling programs.

c. If the Director determines that the BFE must be established for a development, then the applicant will be required to hire a competent consultant (engineer, surveyor, hydrologist, architect, etc.) with proof of suitable credentials to determine the BFE using appropriate FEMA approved methodologies.

B. Application Requirements: Any application for a Development Permit shall be made on forms furnished by the Planning Director and may include, but not be limited to:— plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing structures, proposed structures, fill, storage of materials, utilities, septic facilities, and drainage facilities.

Specifically, the following information is required:

1. General elevation to mean sea level of building site using best information available.

2. Elevation of the lowest floor (including basement) of all structures.

3. Distance between ground elevation and level to which a structure is to be flood-proofed.

4. Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 3.243(D)(6) – Specific Standards.

5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

6. Copies of all permits required from any governmental agency, together with a certification under penalties of perjury that all certificates and permits requested have been obtained.

C. General Standards:– In all areas of special flood hazards the following standards are required:

1. Anchoring

   a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.

   b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, according to requirements set forth in the Oregon Manufactured Dwelling Specialty Code. (See FEMA's Protecting Manufactured Homes from Flood and Other Hazards guidebook for additional information).

2. Construction Materials and Methods

   a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.— See FEMA 348 (Protecting Building Utilities from Flood Damage) for details.

   b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

   c. Electrical, heating, ventilation, plumbing, and air- conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities

   a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the North-Central Public Health District.

D. Specific Standards:— In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.242(B)(4) Use of Other Base Flood Data, the following standards are required:

1. Residential Construction

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot (1') above base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.— Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Partition and Property Line Adjustment Proposals

a. All partition and property line adjustment proposals shall be consistent with the need to minimize flood damage;

b. Parcels created through these processes shall wherever practical include suitable sites for the construction of buildings, structures, sewage systems, and water supplies outside of the ASFH.

c. Parcels created through these processes shall wherever practical be designed so that access to the proposed parcel does not traverse the ASFH.

3. Subdivision Proposals

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

4. Manufactured Homes

a. All manufactured homes to be placed or substantially improved within the ASFH shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam is elevated a minimum of eighteen inches (18") above the base flood elevation and be securely anchored to an adequately designed foundation system to resist floatation, collapse and lateral movement, and shall be in accordance with the provisions of subsection 3.243(C)(1) – General Standards.

b. Fully enclosed areas below the lowest floor that are subject to flooding shall comply with Sections A(2)(a – c) above.– Non-structural metal or vinyl skirting does not constitute a "fully enclosed area".

5. Recreational Vehicles

Recreational Vehicles placed on sites with an "A" zone (Areas of 100-year flood) as identified on the Flood Insurance Rate Maps (FIRM) must:

a. Be on the site for fewer than 180 consecutive days; and

b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

c. Meet the requirements of Section 3.243(D) – Specific Standards above.

6. Non-residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 3.242(B)(6)(e).

d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 3.243(D)(1) – Specific Standards.

e. Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level). (added 4-87)

7. Storage of Hazardous or Toxic Materials

The storage of hazardous or toxic materials shall be a minimum of one foot (1') above the BFE of the property.— This may require alterations to a structure or development to ensure that the potential storage of such materials can be accommodated.– Hazardous or toxic materials include but are not limited to those regulated by the EPA and DOT.

8. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Area Special Flood Hazard (ASFH) (100-year floodplain).— Construction of new critical facilities shall be permissible subject to an Administrative Variance within the ASFH if no feasible alternative site is available.– Critical facilities constructed within the ASFH shall have the lowest floor elevated three feet above the BFE.– Access to and from the critical facility should also be protected to the height utilized above.– Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.— Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

9. Development Within Riparian Areas

The Wasco County FIRMs do not designate regulatory floodways.— No new construction, substantial improvements, or other development (including fill) shall be permitted within the ASFH unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated onsite development, will not increase the water surface elevation of the base flood more than one foot at any point within the

community. The methodology for conducting this research must conform to the methodologies prescribed in the FEMA Region X Procedures for "No-Rise" Certification for Proposed Development s in the Regulatory Floodway.

10. Fish Habitat Structures
Projects for stream habitat restoration may be allowed provided:

a. The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023, and

b. The applicant supplies a feasibility analysis and certification from a qualified professional that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically as possible, and that no structures would be impacted by a potential rise, and

c. No structures would be impacted by a potential rise in flood elevation, and

d. An agreement to monitor the project, correct problems, and ensure that the flood carrying capacity remains unchanged is included with the application.

e. Qualified professionals may include private hydrology or hydraulic consultants, or hydrology or hydraulic professionals from the Soil and Water Conservation District, Natural Resources Conservation Service, Oregon Department of Fish and Wildlife, or similar qualified agency.

f. Other restrictions set forth in the most recent applicable Policy from FEMA may be required of such projects.

SECTION 3.244 Variances

A. Variances to any Flood Hazard Overlay regulations shall be reviewed administratively unless the Planning Director elects the matter to be heard before the Planning Commission.

B. In considering a variance to floodplain standards, the Planning Director or his designee shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

C. Upon consideration of the factors in B., and the purposes of this ordinance, conditions may be attached to the granting of the variance as is deemed necessary to further the purposes of this ordinance.

D. Records of all appeal actions shall be maintained by Wasco County and any variances shall be reported to the Federal Insurance Administration upon request.

E. Conditions for Variances:

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) in Section 3744.A have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.

3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.— As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 3.244(E)(1), and otherwise complies with Sections 3.243(C)(1) and 3.243(C)(2) of the General Standards.

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 3.245– Appeals

Appeals shall be processed as described in Chapter 2 of this Ordinance.

SECTION 3.246– Compliance Required

A. No person shall construct, erect, locate, maintain, repair, alter, enlarge, or change the use of a structure located within the ASFH in violation of this Ordinance.

B. No person shall initiate any development within the ASFH in violation of this Ordinance.

C. The, construction, erection, location, maintenance, repair, alteration, enlargement or change in use of any structure, or the initiation of any development in violation of this Ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and shall be subject to the provisions of the Wasco County Code Compliance and Nuisance Abatement Ordinance.

SECTION 3.247– Revising FIRM Maps

A. Reasons to Revise FIRMs

The Wasco County FIRMs were established in 1984. Advances in technology along with physical changes in a given flood situation may necessitate a FIRM map being updated, revised, corrected, or changed. Common reasons why a FIRM may need to be changed include correcting certain features, including better ground elevation data, reflecting physical changes to the floodplain, submitting new or revised flood data, or to reflect a new flood control project.

Regardless of the reason a FIRM is changed, all changes must be submitted to FEMA and retained by Wasco County.

B. Types of Changes: There are four approaches to changing FIRMs. They include restudies, limited map maintenance projects, amendments, and revisions. Any request for a restudy, amendment or revision must be reviewed by Wasco County for compliance with this chapter.

1. Restudy

a. A restudy is a new Flood Insurance Study for a part or all of a community.

b. Restudies are typically large scale projects conducted by FEMA

2. Limited Map Maintenance Project (LMMP)

a. A LMMP is a small-scale restudy that is limited in size and cost. This type of study is often used for studies of unnumbered A Zones, like those found in Wasco County.

b. A LMMP may be conducted by FEMA or the community.

3. Revision

a. A revision is typically used for:

i. Scientifically based challenges to flood elevations, or

~~i.~~**ii.** Incorporation of new flood data, or

~~ii.~~**iii.** Reflecting fill placed in the floodplain, or

~~iii.~~**iv.** Changing floodplain boundaries,

b. Revisions may be conducted by FEMA, requested by the community, or requested by property owner(s).

4. Amendment

a. An amendment is only used to remove an area that was inadvertently included in the ASFH. Often the ground is higher than depicted on the base map used for the FIRM.

b. FEMA will review map amendments based on information submitted by the applicant. An amendment does not challenge the Flood Insurance Study or FIRM; it simply removes certain portions of a property from the ASFH because they are higher than the Base Flood Elevation

C. Requesting Map Changes

FEMA may actually change a FIRM and publish new copies. A restudy or LMMP will generally result in a new map. Additionally, FEMA may issue a Letter of Map Change (LOMC) when a revision can be adequately described in writing or through use of a small annotated map panel.

There are two types of LOMCs; a Letter of Map Revision (LOMR) and a Letter of Map Amendment (LOMA).

1. Letters of Map Revision (LOMRs) address revisions to the FIRM as described in Section B.3 above. A LOMR may be requested of FEMA by the applicant. A copy of the final LOMR must be provided to the County. FEMA typically charges a processing fee for all LOMRs.

2. Letters of Map Amendment (LOMAs) address revisions to the FIRM as described in Section B.4 above. A LOMA may be requested of FEMA by the applicant. A copy of the final LOMA must be provided to the County. FEMA may not charge a processing fee for a LOMA.

SECTION 3.248 Notes on Insurance

The provisions of this section are provided for informational purposes and are subject to change without notice.

A. Coverage: Flood insurance is available for insurable buildings and their contents to property owners within the ASFH

B. Waiting Period: Unless a Flood Insurance Policy is purchased at the time of closing, a 30-day waiting period typically follows the purchase of that policy before it goes into effect.

C. Mandatory Flood Insurance Purchase: If a building is located within the ASFH, a federally regulated lender is required by law to require the recipient of the loan to purchase a Flood Insurance Policy on the building. This policy is typically equal to the value of the mortgage on the building.

D. Lender's Choice: Although a lender may not be required by law to secure a Flood Insurance Policy on a building or structure located outside of the ASFH, it may choose to require coverage as a condition of a loan for any property. Neither Wasco County, nor FEMA control this requirement.

E. Flood Insurance for Contents: Mandatory Flood Insurance as described above typically does not cover the contents of the building unless an additional voluntary insurance policy is purchased specifically for the contents.

F. Further elevation of a structure beyond the required one foot (1') above BFE may significantly

reduce the cost of a Flood Insurance Policy.

SECTION 3.250 Division 2 - Geologic Hazards Overlay

The purpose of the Geologic Hazards Overlay District is to protect the public health, safety and welfare by assuring that development in hazardous or potential hazardous areas is appropriately planned to mitigate the threat to man's life and property.

A. Basis for Establishing the Geologic Hazards Overlay District

The Geologic Hazards Overlay District is intended to be applied to areas identified by the State of Oregon Department of Geology and Mineral Industries, Geologic Hazards of Parts of Northern Hood River, Wasco and Sherman Counties, Oregon, 1977. A complete explanation and maps showing the natural hazards and geologic units can be found in this document; however, this document may be superseded by a more site specific study conducted by a licensed engineer or geologist registered in the State of Oregon.

B. Approval Standards

Prior to development, the following measures shall be utilized:

1. Any proposed developments on slopes greater than twenty-five percent (25%) shall be reviewed to ensure site suitability. Such review shall be conducted in the process for building permit approval and, unless the site has been identified as a geologic hazard area, shall rely on provisions of the Uniform Building Code for the protection of the public health, safety and welfare.

2. Any proposed development in an identified geologic hazard area shall be preceded by a written report by an engineering geologist or an engineer who certifies he is qualified to evaluate soils for suitability. For purposes of this section, development shall include any excavation or change in topography, such as home construction, associated roads, driveways, septic tank disposal fields, wells and water tanks. The written report of the engineering geologist or engineer shall certify that the development proposed may be completed without threat to public safety or welfare and shall be used in ministerially reviewing the development proposal.

3. In approval of a development permit, whether ministerial or through the Administrative Action procedures of Chapter 2 of this Ordinance, the following conditions may be imposed at the time of approval to ensure site and area stability:

a. Maintain vegetation and eliminate widespread destruction of vegetation.

b. Carefully design new roads and buildings with respect to:

(1) ~~placement~~**Placement** of roads and structures on the surface topography.

(2) ~~surface~~**Surface** drainage on and around the site.

(3) ~~drainage~~**Drainage** from buildings and road surfaces.

(4) ~~placement~~**Placement** of septic tank disposal fields.

c. Careful construction of roads and buildings.

(1) ~~avoid~~**Avoid** cutting toeslopes of slump blocks.

(2) ~~careful~~**Careful** grading around the site, especially avoiding over-steepened cut banks.

(3) ~~re-vegetating~~**Re-vegetating** disturbed areas as soon as possible.

d. Other conditions may be imposed to reasonably assure that the development is protected from damage by mass movement.

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CHAPTER 4 – SUPPLEMENTAL PROVISIONS

SECTION 4.010 – Maintenance of Open Space

No lot area, yard, or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance, and no lot area, yard, off-street parking and loading area or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard or other open space for another use. This section does not apply to area requirements reduced below the minimum as a result of the creation of cemetery lots. Any required yard shall not include any land dedicated, reserved or set aside for road, highway, street or other public purposes except as provided in this Ordinance.

SECTION 4.020 – Projections Into Yards

Every part of a required yard shall be open from the ground to the sky unobstructed except for the following:

A. Accessory buildings where permitted.

B. Ordinary building projections such as cornices, eaves, belt courses, sills or similar architectural features may project into required side yards not more than eighteen (18) inches or into front and rear yards not more than twenty-four (24) inches.

C. Chimneys may project into any required yard not more than eighteen (18) inches.

D. Uncovered balconies or fire escapes may project into any required yard not more than three (3) feet.

E. Uncovered terraces, decks or platforms may project or extend into a required setback not more than five (5) feet. Such terraces, decks or platforms including guardrails or fencing shall not extend thirty (30) inches above grade or ground level.

SECTION 4.030 – Vision Clearance

A vision clearance area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad.

A. A vision clearance area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in the appropriate zone, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.

B. A vision clearance area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 1/2) feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area removed to a height of eight (8) feet above the grade.

C. The following measurements shall establish vision areas:

1. In an agricultural or residential zone, the minimum distance shall be thirty (30) feet, or, at intersections including an alley, ten (10) feet.

2. In all other zones where yards are required, the minimum distance shall be fifteen (15) feet or, at intersections including alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.

SECTION 4.040– Off-Street Parking

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure, off-street parking spaces shall be provided in accordance with this Section.– In an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section.– Where square feet are specified the area measured shall be the gross floor area necessary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or loading.– Where employees are specified, persons counted shall be those working on the premises during the largest shift at peak season, including proprietors.

The following are the uses and minimum standards provided for off-street parking unless specified otherwise:

A. Residential

1. Single-family dwelling:– One (1) space per dwelling unit.

2. Residential hotel, rooming or boarding house:– Four (4) spaces per five (5) guest accommodations, plus one (1) space per two (2) employees.

3. Two family or multi-family dwellings:– Three (3) spaces per two (2) dwelling units.

B. Commercial

1. Motel:– One (1) space per guest room plus one (1) space for owner or manager.

2. Club or Lodge:– One (1) space per five (5) seats, or one (1) space for each fifty (50) square feet of floor area used for assembly, whichever is greater.

3. Retail store except as provided in subsection (2):– One (1) space per two hundred (200) square feet of floor area plus one (1) space per employee.

4. Service or repair shop, retail store handling exclusively in bulk merchandise such as automobiles and furniture:– One (1) space per six hundred (600) square feet of floor area plus one (1) space per employee.

5. Bank, office (except medical and dental):– One (1) space per six hundred (600) square feet of floor

area plus one (1) space per employee.

6. Medical and dental clinic:– One (1) space per three hundred (300) square feet of floor area plus one (1) space for every four (4) seats.

7. Eating and drinking establishment:– One (1) space per two hundred (200) square feet of floor area, plus one (1) space for every four seats.

8. Mortuaries:– One (1) space per four (4) seats or every (8) feet of bench length in chapels.

C. Institutional

1. Welfare or correctional institutions:– One (1) space per five (5) beds for patients or inmates, plus one (1) space per employee.

2. Convalescent hospital, nursing home, sanitarium, rest home for the aged:– One (1) space per five (5) beds for patients or residents, plus one (1) space per employee.

3. Hospital:– Three (3) spaces per two (2) beds.

D. Places of Public Assembly

1. Church:— One (1) space for four (4) seats or every eight (8) feet of bench length in the main auditorium.

2. Library, reading room, museum, art gallery:– One (1) space per four hundred (400) square feet of floor area plus one (1) space per two employees.

3. Pre-school, nursery, kindergarten:— Two (2) spaces per teacher; plus off-street loading and unloading facility.

4. Elementary or junior high school:— One (1) space per classroom plus one (1) space per administrative employee or one (1) space per four (4) seats or every eight (8) feet of bench length in the main auditorium, whichever is greater.

5. High School:– One (1) space per classroom plus one (1) space per administrative employee plus one (1) space for each six (6) students or one (1) space per four (4) seats or eight (8) feet of bench length in the main auditorium, whichever is greater.

6. Other auditorium, meeting room:– One (1) space per four (4) seats or every eight (8) feet of bench length.

SECTION 4.050 Bicycle Parking Requirements

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure, bicycle parking shall be provided in accordance with the following standards:

A. Number of Bicycle Parking Spaces - A minimum of two (2) bicycle parking spaces per use is required for all uses with greater than 10 permanent vehicle parking spaces. The following additional standards apply to specific types of development:

1. Recreational Uses and Parks - Where the proposed use is recreational, bicycle parking shall be provided one (1) bicycle parking space for every 10 motor vehicle spaces. Fifty percent (50%) of the bicycle parking spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

2. Schools - Schools, both private and public, shall provide one (1) bicycle parking space for every 10 students and employees. All spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

B. Exemptions - This Section does not apply to single family dwellings, home occupations, agriculture and livestock uses, or other developments with fewer than 10 permanent vehicle parking spaces.

C. Location and Design - Bicycle parking shall be conveniently located with respect to both the road right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities.

D. Visibility and Security - Bicycle parking shall be visible to cyclists from roadway sidewalks or building entrances, so that it provides sufficient security from theft and damage;

E. Options for Storage - Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building;

F. Lighting - Bicycle parking shall be least as well-lit as vehicle parking for security.

G. Reserved Areas - Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

H. Hazards - Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located to avoid conflict with vision clearance standards (Section 4.090 Vision Clearance).

SECTION 4.060 Public Parking Area

Every parcel of land hereafter used as a public parking area or an automobile or trailer sales area shall be developed as follows unless otherwise specified:

A. Such areas shall be surfaced with permanent paving; they shall have bumper rails or curbs and be enclosed by a sturdy wall, fence or evergreen hedge not less than thirty (30) inches in height nor more than six (6) feet in height. Such wall, fence or hedge shall not enclose any required front yard or required side yard on the street side of a corner lot. Any such required front or side yard shall be properly maintained.

B. Where a public parking area or automobile or trailer sales area is illuminated, the lights shall be fixed so as to reflect away from adjoining premises in residential zones.

SECTION 4.070– Off-Street Loading

A. Schools:— A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.

B. Merchandise, materials or supplies:— Buildings or structures to be built or substantially altered to receive and distribute materials or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.– If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.– Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

SECTION 4.080– General Provisions-Off-Street Parking and Loading

A. The provisions and maintenance of off-street parking and loading spaces are continuing obligations of the property owner.– No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use of off-street parking and loading space.— The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance.— Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Director of Planning based upon the requirements of comparable uses listed herein.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap.

E. Off-street parking spaces shall be located on the same or abutting lot with the building or use they are intended to serve.

F. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

G. Plans shall be submitted in sufficient detail so that they may be reviewed and approved by the appropriate reviewing authority.

H. Design requirements for parking lots:

1. Areas used for standing and maneuvering of vehicles shall have a durable and dustless, but not necessarily paved, surface maintained adequately for all weather use.

2. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

3. Access aisles shall be of sufficient width for all vehicle turning and maneuvering.

4. Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movement or other maneuvering will be required within a street.

5. Lighting of the parking area shall be deflected from a residential zone.

I. Required parking spaces shall be improved and available for use by the time the use to be served by the parking space is ready for occupancy.

SECTION 4.090– Through Lots

A. On through lots one hundred fifty (150) feet or less in depth, the height of a building may be that permitted on either street on which the lot faces.

B. On through lots more than one hundred fifty (150) feet in depth, the height regulations for the greater height shall not extend more than one hundred fifty (150) feet from that street.

C. Through lots having a frontage on two streets shall provide the required front yard on each street.

SECTION 4.100– Exterior Finishing of Mobile Homes

A. All mobile homes located on any lot or parcel in Wasco County shall be skirted with fire-proof, non-decaying and non-corroding materials or shall be provided with a cement or concrete block exterior foundation.— If metal skirting is employed, it shall be painted and formed in a pattern complementary to the siding of the mobile home.

B. All awnings carports, ramadas, cabanas, and garages shall be painted and designed in a style complementary to the design of the mobile home.

C. Wheels shall be removed from all mobile homes at the time of installation on property. In addition, tongues, and hitches shall be removed from all mobile homes wider than ten (10) feet that are installed on any parcel of land, exclusive of licensed mobile home parks.– The Director of Planning may exempt certain mobile homes from the last requirement when removal would damage the frame and weaken the structure.

SECTION 4.110– Accessory Buildings Serving as Guest Houses

Any accessory building built to function as a guest house for use in a manner subordinate and incidental to the main use may be allowed on a lot-of-record on which a primary dwelling is situated, subject to the setback requirements of the underlying district, and the provisions of this section;

A. Only one (1) guest house shall be allowed on a lot-of-record.

B. The maximum floor area of a guest house, including all levels and basement floor areas shall not exceed six hundred (600) square feet.– Garage area shall not count toward the total floor area.– In addition to the six hundred (600) square foot size limitation, guest houses shall also be subject to the height limitations and the combined footprint size limitation established for accessory buildings in each zone.

C. A guest house shall be located within one hundred (100) feet of the primary dwelling on the subject lot-of-record.– This distance shall be measured from the closest portion of each structure.

D. Occupants of a guest house and the primary dwelling shall live together as one house keeping unit, sharing one kitchen and one laundry facility, to be located in the primary dwelling.– A guest house shall be permitted one (1) bathroom, but not a refrigerator or freezer, range/stove/oven, or other cooking appliances.

E. All public water, electricity, natural gas and sewer services for the guest house shall be extended from the primary dwelling service.– No separate meters for the guest house shall be allowed.– A separate telephone line for the guest house may be provided.

F. A guest house shall use the same septic system as the primary dwelling.– Approval from the County Sanitarian shall be required.

G. The property owners shall sign and record a covenant letting future property owners know the guest house cannot be used as a single family dwelling.

SECTION 4.120– Traffic Impact Analysis (TIA)

A. Purpose - The purpose of this section of the code is to implement OAR 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the County to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Analysis; and who is qualified to prepare the Study.

B. Typical Average Daily Trips - The latest edition of the Trip Generation Report, published by the Institute of Transportation Engineers (ITE), or a source deemed acceptable to the City Engineer through the pre-application process (Section 4.120(D)(3)) shall be used to gauge the trip generation potential of future development.

C. When Required - A Traffic Impact Analysis shall be required to be submitted to the County with a land use application when the following conditions apply:

1. The development application involves one or more of the following actions:

a. A change in zoning or a management plan amendment initiated at the county level; or

b. Any proposed development or land use action that ODOT states may result in operational or safety concerns along a state highway; and

c. The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:

(1) An increase in site traffic volume generation by 200 Average Daily Trips (ADT) or more (or as required by the Wasco County Road Master); or

(2) An increase in intersection traffic volume by 50 Average Daily Trips (ADT) or more (or as required by the Wasco County Road Master); or

(3) An increase in use of adjacent roads by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or

(4) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the adjacent roadway, creating a safety hazard; or

(5) The location of the access driveway does not meet the access spacing standard of the roadway on which the driveway is located; or

(6) A change in internal traffic patterns that may cause safety problems, such as back up onto the roadway or traffic crashes in the approach area.

D. Traffic Impact Analysis Requirements

1. Preparation - A Traffic Impact Analysis shall be prepared by a professional engineer. The traffic analysis will be paid for by the applicant.

2. Transportation Planning Rule Compliance - See Section 9.059 Transportation Planning Rule Compliance.

3. Pre-application Conference - The applicant will meet with the County Road ~~m~~**M**aster prior to submitting an application that requires a Traffic Impact Analysis.~~—~~ ODOT will be invited to

participate in the pre-application conference if a proposal is expected to have impacts to a state transportation facility.— The objective of this meeting is to prepare a scope of the TIA, including the required elements of the TIA and the level of analysis expected.

E. Approval Criteria

1. Criteria - When a Traffic Impact Analysis is required, approval of the development proposal requires satisfaction of the following criteria:

a. The Traffic Impact Analysis was prepared by a registered professional engineer in the State or Oregon; and

b. If the proposed development shall cause one or more of the effects in Section C(1)(c), above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Analysis includes mitigation measures that meet County's volume-to-capacity ratio of 0.85 and satisfactory to the County Road Master, and ODOT when applicable; and

c. The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:

(1) Have the least negative impact on all applicable transportation facilities; and

(2) Accommodate and encourage non-motorized vehicular modes of transportation to the extent practicable; and

(3) Make the most efficient use of land and public facilities as practicable; and

(4) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and

(5) Otherwise comply with applicable requirements of the Wasco County Land Development Ordinance.

F. Conditions of Approval.— The County may deny, approve, or approve the proposal with appropriate conditions.

1. Dedication of land for streets/roadways, transit facilities, sidewalks, bikeways, paths, or access ways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

2. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, access ways, paths, or streets/roadways that serve the proposed use where the existing transportation system may be burdened by the proposed use may be required.

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CHAPTER 5– CONDITIONAL USE REVIEW

SECTION 5.010– Purpose

A conditional use is an activity which is basically similar to the uses permitted in a particular zone but which may not be entirely compatible with the permitted uses.— Therefore, a conditional use must be approved through the Administrative Action procedure to ensure that the use is compatible with the permitted uses in a zone and consistent with the general and specific purposes of this Ordinance, the Wasco County Comprehensive Plan, and the Management Plan for the Columbia River Gorge National Scenic Area. Conditions of approval may be imposed to ensure that any use may be made compatible with surrounding uses and that non-resource uses permitted in resource areas do not interfere with accepted resource management practices.

SECTION 5.020– Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used

Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise altered or denied upon authorization by Administrative Action in accordance with the procedures set forth in Chapter 2 of this Ordinance.— In judging whether or not a conditional use proposal shall be approved or denied, the Administrative Authority shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

A. The proposal is consistent with the goals and objectives of the Management Plan for the Columbia River Gorge National Scenic Area, and consistent with the provisions of the County's implementing ordinances.

B. Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses.

C. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to:— roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities.

D. The proposed use will not unduly impair traffic flow or safety in the area.

E. The effects of noise, dust and odor will be minimized during all phases of development and operation for the protection of adjoining properties.

F. The proposed use will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along streambanks and will not subject areas to excessive soil erosion.

G. The proposed use will not adversely affect the air, water, or land resource quality of the area.

H. The location and design of the site and structures for the proposed use will not significantly detract

from the visual character of the area.

I. The proposal will preserve areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.

For properties located within or adjacent to farm or forest zones, or located nearby agricultural and forest operations, the following shall apply:

J. The proposed use is compatible with agricultural uses and will not force a change in, or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to, or available for, farm or forest use.

K. The proposed use or development will be sited in such a way as to minimize the loss of forest or agricultural land suitable for the production of crops or livestock and to minimize the chance of interference and not force a change in accepted farm or forest practices on surrounding lands devoted to, or available for, farm or forest use.

L. The use or development will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel.

M. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices ~~on lands designated Large Scale~~**w** or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

SECTION 5.030 – Conditions

Such reasonable conditions as are necessary to ensure the compatibility of a conditional use to surrounding permitted uses as are necessary to fulfill the general and specific purposes of this Ordinance may be imposed in approving an application, pursuant to 2.120(C).— Such conditions may include, but are not limited to, the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size, or location of a building or other structure.

D. Designating the size, number, location, and nature of vehicle access points.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

F. Limiting or otherwise designating the number, size, location, height and lighting of signs.

G. Limiting the location and intensity of outdoor lighting and requiring its shielding.

H. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

I. Designating the size, height, location and materials for a fence.

J. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural, historic, or cultural resources.

K. Other conditions to permit the development of the County in conformity with the intent and purpose of the conditional classification of uses.

SECTION 5.040– Revocation of Conditional Use Permit

Noncompliance with any condition placed on a conditional use permit shall be grounds for revocation of the permit.– Revocation of a conditional use permit shall be considered a land use action and reviewed by the Planning Commission.– The following procedures shall be completed at least twenty (20) days prior to the date of the revocation hearing:

A. A notice of violation pursuant to Section 15.090 shall be sent to the owner of the property on which the conditional use takes place.

B. Notice of public hearing pursuant to 2.100(B) shall be sent.

The opportunity for review of the Planning Commission decision, pursuant to Section 2.160 shall be available.

SECTION 5.050 Criteria for Certain Transportation Facilities and Improvements.

A. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted Wasco County Transportation System Plan ("TSP") or (2) not designed and constructed as part of an approved, active, development order, are allowed in all zoning districts subject to the Conditional Use Review provisions of this ordinance and satisfaction of all of the following criteria :

1. The project and its design are consistent with the County's adopted TSP and consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").

2. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.

3. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

4. The project includes provisions for bicycle and pedestrian access and circulation consistent with the requirements of this ordinance, and the TSP.

B. State transportation system facility or improvement projects. The Oregon Department of Transportation ("ODOT") shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in this Section. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.

C. Proposal inconsistent with TSP/TPR. If the County determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall first attempt to amend the project so that it is consistent. If the applicant can justify this is not practicable they can apply for a Management Plan and/or Zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:

1. If the County's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use application; or

2. If the County's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a Management Plan/Zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or

3. If the County's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a Management Plan/Zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 215.429 120/150-day period within which to complete all local reviews and appeals once the application is deemed complete; or

4. If the County's determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a Management Plan/Zoning amendment application for joint review and decision.

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CHAPTER 6– VARIANCES FROM BUILDING HEIGHTS, SLOPE, – SETBACKS– AND BUFFERS

SECTION 6.010– Purpose

A. When building height, setbacks, buffers or other review criteria specified in this Ordinance for protection of scenic, cultural, natural, recreational, agricultural or forestry resources overlap or conflict, building height, setbacks, or buffers should be varied in a manner to achieve, to the greatest extent possible, the overall protection of the affected resources.

1. Variances of setbacks from parcel boundaries imposed on lands designated Agriculture, Special Agriculture, Rural Residential, or Commercial, to protect adjacent property owners and variances to the maximum building height shall not allow a development to:

a. infringe on any buffers or setbacks or supersede any height constraints stipulated under Chapter 14 - Scenic Area Review, or

b. encroach on setbacks established in and around land designated agriculture for the protection of lands that are used for or are suitable for agricultural uses.

2. Setbacks established, in and around land designated agriculture, for the protection of lands that are used for or are suitable for agricultural uses shall not encroach on any buffer or setbacks stipulated under Chapter 14 - Scenic Area Review.– (SMA Only)

B. Building height, setbacks and buffers specified in this Ordinance for protection of scenic, cultural, natural, recreational, agricultural or forestry resources shall not be applied in the General Management Area in such a manner as to deprive the owner of a tract of land of the opportunity to establish a residence on the land if that opportunity is otherwise authorized by the land use designation.– (GMA Only)

SECTION 6.020– Criteria for Decision

A. Authority

1. Administrative Variance
The request shall be for a variance to a building height, setback or buffer which is less than 50% of the stated standard for the building height, setback or buffer as stated in this ordinance.

2. Planning Commission Variance
The request shall be for a variance to a building height, setback or buffer which is 50% or greater of the stated standard for the building height, setback or buffer as stated in this ordinance.

B. When building height, setbacks or buffers specified in the standards for protection of scenic, cultural, natural, recreational, agricultural or forestry resources overlap or conflict, the building height, slope setbacks or buffers may be varied upon a demonstration that:– (GMA Only)

1. A building height, setback or buffer specified in this Ordinance to protect one resource would cause the proposed use to fall within a setback or buffer specified in this ordinance to protect another resource; and

2. Variation from the specified building height, setbacks or buffer would, on balance, best achieve the protection of the affected resources.

C. A building height, setback or buffer specified in the standards for protection of scenic, cultural, natural, recreational, agricultural, or forestry resources may be varied in the General Management Area in order to allow a residence to be built on a tract of land upon a demonstration that:

1. The land use designation otherwise authorizes a residence on the tract;

2. There is no site on the tract (all contiguous lots or parcels under the same ownership) on which a residence could be placed practicably in full compliance with the building height, setback or buffer; and

3. The variance from the specified building height, setback or buffer is the minimum necessary to allow the residence.

4. **The variance shall not be used to permit an addition to a building (including, but not limited to, decks and stairs), when the addition would be within the setback, except where the building is wholly within the setback, in which case, the addition may only be permitted on the portion of the building that does not encroach any further into the required setback.**

D. All setbacks and buffer zones in the SMA shall remain undisturbed unless:

1. It has been shown that no practicable alternatives exist, as evidenced by completion of a practicable alternative test; and

2. The natural resources mitigation plan completed in accordance with Chapter 14 of this ordinance ensures that the development can be mitigated to ensure no adverse effects would result.

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CHAPTER 8– TEMPORARY USE PERMIT

SECTION 8.010– Purpose

A temporary use permit may be approved to allow the limited use of structures or activities which are temporary or seasonal in nature and do not conflict with the zoning district in which they are located.– No temporary use permit shall be issued which would have the effect of permanently rezoning or granting a special privilege not shared by other properties in the same zoning district.

SECTION 8.020– Permitted Temporary Uses

Temporary structures, activities or uses may be permitted, pursuant to 2.050(A) of this Ordinance, Chapter 3 – Basic Provisions, and Chapter 14 - Scenic Area Review.

SECTION 8.030– Criteria for Decision

No temporary permits shall be issued except upon a finding that the proposed structure, activity or use would not permit the permanent establishment within a zoning district any use not permitted within the zoning district of any use for which a conditional use permit is required.

SECTION 8.040– Conditions Relative to the Issuance of Temporary Permits

A. Reasonable conditions may be imposed pursuant to 2.120(C) by the Approving Authority in connection with the temporary permit to minimize the potential impact of the proposed use to other uses in the vicinity.– Guarantees and evidence may be required that such conditions will be or are being complied with.– Such conditions may include, but are not limited to:

1. Special yards and spaces;

2. Fences or walls;

3. Control of points of vehicular ingress and egress;

4. Special provisions on signs;

5. Landscaping and maintenance thereof;

6. Maintenance of the grounds;

7. Control of noise, odors, or other nuisances;

8. Limitation of time for certain activities.

B. Any temporary permit shall clearly set forth the conditions under which the permit is granted and shall clearly indicate the time period for which the permit is issued.— No temporary permit shall be transferable to any other owner or occupant, but may be renewable through the Administrative Action process.

C. All structures for which a temporary permit is issued:

1. Shall meet all other requirements of the zoning district in which they are located;

2. Shall meet all applicable County health and sanitation requirements;

3. Shall meet all applicable County building code requirements;

4. Shall be removed upon expiration of the temporary permit unless renewed by the Director, or used in conjunction with a permitted use; and

5. Shall meet the appropriate requirements for the protection and enhancement of scenic, cultural, natural and recreation resources as required in Chapter 14 - Scenic Area Review.

SECTION 8.050 – Issuance of Permits

A. Temporary permits shall be issued for the time period specified by the Approving Authority but may be renewable upon expiration as an Administrative Action if all applicable conditions can again be met. In no case shall a temporary permit be issued for a period exceeding two (2) years, unless the temporary permit is renewed.

B. Renewal of a temporary permit shall follow the same procedure as the initial application.

SECTION 8.060 – Temporary Use of a ~~Mobile~~ Manufactured Home (Family Hardship)

A. During a family hardship condition where the condition relates to the necessary care for aged, infirm or persons otherwise incapable of maintaining a separate residence, the Director may authorize the placement of a m**anufactured**~~obile~~ home on a lot if the following criteria are met:

1. The request for the m**anufactured**~~obile~~ home is submitted in writing. Such request shall state the nature of the hardship, the names of the persons who will occupy such dwelling, the relationship of the occupants of such dwelling to the residents, and the estimated period of time the dwelling will remain on the property.

2. The additional dwelling will use the same subsurface sewage disposal system used by the existing dwelling if that said sewage disposal system is adequate to accommodate the additional dwelling unless the additional dwelling can utilize a public sanitary sewer system.

3. The additional dwelling is a m**anufactured**~~obile~~ home or recreational vehicle as defined in Section 1.200 of this Ordinance.

4. A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

5. The location and use of the additional dwelling otherwise conforms to the provisions established for the zone, and is found to be consistent with Chapter 14 - Scenic Area Review.

6. **The structure does not require a permanent foundation.**

B. Temporary placement of an additional dwelling may be granted for the time period specified by the Director, subject to annual review for compliance with the provisions of this section and any other conditions of approval. A temporary use permit may be renewable upon expiration if all applicable

conditions can be met. In no case shall a temporary placement be authorized for a period exceeding two (2) years, unless the temporary placement is renewed.

C. The Director shall determine whether or not the conditions described in this section warrant approval of the request to place an additional dwelling on the property. The Director may require a Doctor's, Physician's Assistant or nurse Practitioner statement showing that the person is incapable of maintaining a separate residence and needs to be near a family member for care and supervision. The Director may also require the applicant to provide any other evidence as he deems necessary to make that determination.

D. Upon expiration of the time period for which the temporary placement was authorized, or at such time as the hardship ceases to exist, whichever comes first, the property owner shall have thirty (30) days in which to remove the additional dwelling from the property, unless an extension is granted as prescribed above.

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CHAPTER 9 ZONE CHANGE AND ORDINANCE AMENDMENT

SECTION 9.010 Gorge Commission

All zone changes shall first require an amendment to the Management Plan by the Gorge Commission. Upon receipt of an application for a zone change, the Gorge Commission shall schedule a hearing on the matter and take such action as may appear appropriate to that body. Amendments to the Management Plan shall be conducted by the Gorge Commission as specified in Section 9.100, Amendment of the Management Plan.

Upon final approval of the zone change by the Gorge Commission and concurrence by the Secretary of Agriculture, the zone change shall be reviewed by the County pursuant to those procedures set out in Sections 9.020, 9.030, 9.040, 9.060, 9.070 and 9.080.

SECTION 9.020– Application for Zone Change

Application for a zone change may be initiated as follows:

A. By resolution of the County Board of Commissioners referring to the Planning Commission a proposal therefore;

B. By a majority vote of the Planning Commission confirmed by the Wasco County Governing Body;

C. By application filed with the Director of Planning upon forms prescribed by the Director of Planning and signed by a property owner within the area of the proposed change, and containing such information as may be required to establish the criteria for the change (quasi-judicial only);

D. By petition filed with the Director of Planning upon forms prescribed by the Director and bearing the signatures of not less than two hundred (200) registered voters of the County.

Any petition for a Zone Change shall be accompanied by any additional information or material which petitioners feel justifies the need for action.

Within 90 days of receipt of the petition the Director of Planning shall present the petition to the County Governing Body and provide a recommendation.— An authorized representative of the petitioners shall be notified of the date of the review and shall be allowed the opportunity to explain the petition.– The County Governing Body may accept or reject the petition.– If the petition is accepted the County Governing Body shall determine the timeframe to initiate the Zone Change process.

E. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan, the Management Plan, or to eliminate spot zoning.

SECTION 9.030– Criteria for Decision

The Approving Authority may grant a zone change only if the following circumstances are found to exist:

A. The original zoning was the product of a mistake; or

B. It is established that:

1. The rezoning will conform with the Management Plan for the Columbia River Gorge National Scenic Area; and,

2. The site is suitable to the proposed zone;

3. There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.

SECTION 9.040 Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, when initiated by the County or by a private interest, shall include a transportation analysis concurrently with the application. The application shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

2. Change standards implementing a functional classification system; or

3. As measured at the end of the planning period identified in the adopted transportation system plan:

a. Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

b. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

c. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

B. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:

1. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

2. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.

3. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.— This may require a Management Plan amendment.

4. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

C. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.120 Traffic Impact Analysis (TIA)

SECTION 9.050– Conditions Relative to the Approval of a Zone Change

Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.– Such conditions may include, but are not limited to, the following:

A. Special yards and spaces;

B. Fences and walls;

C. Special parking and/or loading provisions;

D. Street dedication and improvements or bonds in lieu of improvements;

E. Control of points of vehicular ingress and egress;

F. Special provisions for signs;

G. Lighting, landscaping and maintenance of grounds;

H. Control of noise, vibration, odors, or other similar nuisances.

SECTION 9.060– Amendments to the Zoning Ordinance

Amendments to this Ordinance may be initiated as follows:

A. By resolution of the County Governing Body referring a proposed amendment to the Planning Commission for its consideration, report and recommendations;

B. By a majority vote of the Planning Commission confirmed by the Wasco County Governing Body;

C. By petition filed with the Director of Planning upon forms prescribed by the Director and bearing the signatures of:

1. Not less than two hundred (200) registered voters of the County; or

2. Where the proposed amendment would affect a limited area within the County, at least sixty percent (60%) of the recorded owners of property within the area and three hundred (300) feet thereof, and accompanied by a list of the record owners of property within the area and three hundred feet thereof.

   Any petition for Ordinance amendment shall be accompanied by any additional information or material which petitioners feel justifies the need for action.

   Within 90 days of receipt of the petition the Director of Planning shall present the petition to the County Governing Body and provide a recommendation. An authorized representative of the petitioners shall be notified of the date of the review and shall be allowed the opportunity to explain the petition. The County Governing Body may accept or reject the petition. If the petition is accepted the County Governing Body shall determine the timeframe to initiate the Ordinance Amendment process.

D. By request of the Director of Planning or the District Attorney to conform the Ordinance to changes in the State Law;

E. Any Ordinance amendment that will require an amendment to the Management Plan shall first be reviewed by the Gorge Commission and concurred upon by the Secretary of Agriculture pursuant to those procedures set out in Section 9.100, Amendment to the Management Plan. Upon amendment of the Management Plan, the application shall be reviewed by the County, pursuant to those procedures set out in Sections 9.050, 9.060, 9.070, 9.080 and 9.090 of this ordinance.

F. Any Ordinance amendment that does not require an amendment to the Management Plan shall first be reviewed by the County, pursuant to those procedures set out in Sections 9.050, 9.060, 9.070, 9.080 and 9.090 of this ordinance.

SECTION 9.070 Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance

After the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Planning Director or ~~his/her~~**their** assistants shall reduce to writing the Planning Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

SECTION 9.080 Notice of Planning Commission Recommendation

Within ten (10) days of the Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

SECTION 9.090 Action by County Governing Body

Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Board of Commissioners act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

SECTION 9.100 – Action by the Gorge Commission

The Columbia River Gorge Scenic Area Act governs the process for counties to adopt land use ordinances consistent with the management plan. The following is a summary of 16 U.S.C. § 544e Section 7 (b):

All ordinance amendments shall require review by the Gorge Commission, and approval, before the ordinance amendments can be implemented.

Upon receipt of the final order of the Ordinance amendment by the County Board of Commissioners, the Gorge Commission shall schedule a hearing on the matter and take such action as may appear appropriate to that body.

Within ninety (90) days after receipt of the final order by the County Board of Commissioners of the ordinance amendments, the Gorge Commission, by majority vote including at least three members from each State, shall approve the ordinance amendments, unless the Gorge Commission determines the ordinance amendments are inconsistent with the Management Plan for the Columbia River Gorge National Scenic Area.

Should the Gorge Commission fail to act within ninety (90) days, the ordinance amendments shall be deemed to be approved.

The commission shall submit amendments to the Special Management Area ordinance to the Secretary of Agriculture. If the Secretary fails to act within ninety (90) days the Secretary shall be deemed to have concurred on the Special Management Area ordinance amendments.

SECTION 9.110 – Amendment of the Management Plan

Congress gave the Gorge Commission the authority to amend the Management Plan, after adoption, if the Gorge Commission determines that conditions within the Scenic Area have changed significantly it may amend the Management Plan pursuant to Commission Rule 350-50.

SECTION 9.120 – Revision of Urban Area Boundaries

Congress designated 13 cities and towns as "Urban Area": Cascade Locks, Hood River, Mosier and The Dalles, Oregon, and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon and Wishram, Washington. Urban Areas are exempt from regulation under the Management Plan. ~~Congress established the boundaries of the Urban Areas when it enacted the Scenic Area Act. However, it authorized the Gorge Commission to make minor revisions to the Urban Area boundaries. Congress also set forth in the Scenic Area Act a process and criteria for use by the Gorge Commission in carrying out the revision process. The Gorge Commission may revise Urban Area Boundaries pursuant to Commission Rule 350-40.~~ **The Columbia River Gorge Commission has defined the revision process in the Management Plan, under Revision of Urban Area Boundaries.**

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CHAPTER 10 – RESOURCE ENHANCEMENT PROJECTS, DISPOSAL SITES AND MINERAL & AGGREGATE REVIEW

SECTION 10.100 Resource Enhancement Projects (GMA & SMA)

Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, which may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries) subject to the following criteria:

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

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

1. Application Requirements. In addition to other applicable requirements, land use applications for quarry enhancement projects shall include a reclamation plan that provides all the applicable information specified in 10.300(A) except the words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-mining," respectively, and the appropriate state agency or local government does not have to approve the reclamation plan and meet the requirements of 10.300(B)(1) if any of the quarry enhancement project is visible from Key Viewing Areas. **The reclamation plan should provide at a minimum the following:**

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

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

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

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

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

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

3. Natural Resource Standard.– Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

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

a. All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.

b. All landscaping shall be planted within one (1) year of the date an applicant completes the grading.

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

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

C.– Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a written plan consistent with the guidelines under "Wetlands Compensation Plans".

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

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

SECTION 10.200– Disposal Sites (GMA & SMA)

Disposal sites managed and operated by the Oregon Department of Transportation, or the Wasco

County Public Works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to the following:

A. Application Requirements.– In addition to other applicable requirements, land use applications for disposal sites shall include the same information that applicants are required to submit for expansion of existing quarries and ~~production and/or development of mineral resources~~ **exploration, development (extraction or excavation), and production of mineral resources** in the GMA which are indicated in 10.300(A) & (B)(1), Mineral and Aggregate Review, in addition to the following:

1. Cultural resource reconnaissance and historic surveys, as required by Section 14.500. Disposal sites shall be considered a "large-scale use".

2. Field surveys to identify sensitive wildlife areas or sites and ~~sensitive plants~~**rare plants** as described in Section 14.600.

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

C. Scenic Resource Standards.– Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and **exploration, development (extraction or excavation), and production of mineral resources** ~~production and/or development of mineral resources~~ in the GMA, in 10.300(B)(2) through (5).

SECTION 10.300– Mineral and Aggregate Review (GMA Only)

A.– All Mineral and Aggregate Operations

1. For all new ~~production and/or development of mineral resources~~ **exploration, development (extraction or excavation), and production of mineral resources** and expansion of existing quarries, a reclamation plan is required in addition to the site plan.– The reclamation plan shall address the restoration of the site to a natural appearance which blends with and emulates **distinctive characteristics inherent to its landscape setting**~~surrounding landforms to the maximum extent practicable.–~~ At a minimum, such reclamation plans shall include:

a. A map of the site, at a scale of 1" = 200' or a scale at greater detail with ten (10) foot contour intervals or less, showing pre-mining existing grades and post-mining, final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use;

b. Cross-sectional drawings of the site showing pre-mining and post-mining grades;

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

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

e. Descriptions of drainage/erosion control features to be employed for the duration of the use.

2. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the Oregon Department of Geological and Mineral Industries (DOGAMI) for review and comment. DOGAMI shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. DOGAMI comments shall address the following:

a. whether the proposed mining is subject to state reclamation permit requirements;

b. if subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

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

B. Mineral and Aggregate Operations Visible from Key Viewing Areas

1. For proposed mining and associated activities on lands visible from Key Viewing Areas applicants shall submit perspective drawings of the proposed mining areas as ~~seen~~**visible** from applicable Key Viewing Areas.

2. ~~Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than three miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:~~

~~The site plan requirements for such proposals that are pursuant to this chapter have been met.~~

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

~~A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At a minimum the reclamation plan shall comply with Sections 10.300.A.1 and 10.300.A.2 above.~~

~~A. A written report on a determination of visual subordinance has been completed, with~~

~~findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:~~

~~**1.** a list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/ activities) would be visible;~~

~~**2.** an estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;~~

~~**3.** the distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;~~

~~**4.** the slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;~~

~~**5.** the degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening and considerations;~~

~~**6.** the degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc., and approximate time frames to achieve such results, including winter screening considerations.~~

~~**3.**~~ An interim time period to achieve compliance with visual subordinance requirements in the GMA, for expansion of existing quarries and development of new quarries located more than three miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed three years beyond the date of approval.

3~~4~~**.** New **exploration, development (extraction or excavation), and production of mineral resources** ~~production and/or development of mineral resources~~ on sites less than 3 miles from the nearest Key Viewing Area may be allowed upon a demonstration that the area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any Key Viewing Area as described in 5 below.— The applicant shall also meet the requirements of B(2) above.

4. An interim time period to achieve compliance with full screening requirements for new quarries located less than three miles from the nearest visible Key Viewing Area shall be established prior to approval.— The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed one year beyond the date of approval.— Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide screening, for example the creation of berms and planting of trees.

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CHAPTER 11– FIRE SAFETY STANDARDS

SECTION 11.010– Purpose of Fire Safety Standards:

A. To inform and notify rural residents that fire protection services are limited or nonexistent through much of Wasco County.

B. Encourage residents to become familiar with the structural fire protection district that will respond to their property (if there is one).

C. To notify them that the volunteer fire protection districts can only serve if they have sufficient trained volunteers to meet demands.– **Please consider volunteering.**

D. To reduce threats to life, safety, property, and resources by improving access to and defensibility of development in rural areas.

E. To educate current and future property owners about fire safety standards and regulate fire standards in a manner that decreases review process where possible while communicating requirements as clearly as possible.

F. To provide flexibility where necessary by providing for a review process that will allow modifications to fire safety standards where necessary with comment and recommendations from emergency responders.

G. To establish consistency between standards currently listed in various zones, Oregon Department of Forestry regulations, and best available science.

SECTION 11.020– Applicability of Fire Safety Standards

A. Applicability of Fire Safety Standards in Different Rural Zones:
County Ordinances affect all rural zones (all zones outside an Urban Growth Boundary).— All rural zones are subject to fire standards but the applicability of the specific standards varies by zone and by use type.— Zoning terms used to classify groups of land use designations in the Fire Safety Standard Checklist, Sections 11.110 to 11.150, are defined in the following table (any more specific distinctions based on parcel shape or specific zoning designation are also called out in the checklist):

Zoning Classifications Referred to in the Fire Safety Standards Checklist, Sections 11.110-11.150		Zones
All Zones – All rural zones anywhere outside an adopted Urban Growth Boundary	**Exception Areas and Smaller Lot Residential -** Exception areas with smaller lot residential, rural commercial, rural industrial or rural community land use designations.	RR-1, RR-2
	Resource Zones and Large Lot Residential - Resource or recreation zones and rural residential areas with larger minimum lot sizes.	RR-5, RR-10, A-1, A-2 F-1, F-3 & PR

Please also work with the County Planning Department if you are permitting only an accessory structure or replacing or adding onto an existing home, commercial, or industrial structure and they will help you determine which standards apply to that specific type of land use in accordance with (B) below.

B. Applicability of Fire Standards to Different Types of Land Uses

1. Zones affected by Fire Standards
Fire standards are applicable in all rural zones, but different standards may apply in different types of zones.– The applicability of fire standards by zone is discussed in (A) above and noted in the fire safety standards checklist below, Sections 11.110 to 11.150. The checklist also highlights any specific differences in the applicability of the standard due to size of lot or specific zoning.

2. Uses affected by Fire Standards
Some fire standards are applicable only to new dwellings while others are applicable to all kinds of structures and alterations to structures.– The following table lists the fire safety standards applicable to different types of development.

Applicability of Fire Safety Standards to Different Types of Land Uses	
All New Dwellings and Rural Commercial or Rural Industrial Buildings **Conditional Use Permit, Subject to Standards, Site Plan Review, and Permitted Dwellings**	**Siting** – **(A)** Avoid slopes > 40% & **(B)** Set back from top of slopes > 30% **Defensible Space** – **(A)** Fire fuel break & **(B)** Minimum of 50 feet to unmanaged lands around structures **Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks, **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities, **(B.5)** Stand Pipe **Access** – **(A)** Improved Surface & Minimum Driveway widths, **(B)** Turn Radius, Maximum Slopes, & Pull Outs, **(C)** Physical Clearance & Fire Fuel Breaks on Driveways, **(D)** Turnarounds, **(E)** Bridges & Culverts, **(F)** Gates, **(G)** Signs & **(H)** Roads to the property **Structural Fire Protection Required**
Relocated Dwellings (Replacement in a new location)	**Siting** – **(A)** Avoid slopes > 40% & **(B)** Set back from top of slopes > 30% **Defensible Space** – **(A)** Fire fuel break & **(B)** Minimum of 50 feet to unmanaged lands around structures **Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks, **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities & **(B.5)** Stand Pipe **Access** – **(A)** Improved Surface & Minimum Driveway widths, **(B)** Turn Radius, Maximum Slopes, & Pull Outs, **(C)** Physical Clearance & Fire Fuel Breaks on Driveways, **(D)** Turnarounds, **(E)** Bridges & Culverts, **(F)** Gates & **(G)** Signs.
Replacement Dwellings (In Kind – same size / same location)	**Defensible Space** – (A) Fire fuel break & (B) Minimum of 50 feet to unmanaged lands around structures. **Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks, **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities, **(B.5)** Stand Pipe **Access** – **(A)** Improved Surface & Minimum Driveway widths, **(B)** Turn Radius, Maximum Slopes, & Pull Outs, **(C)** Physical Clearance & Fire Fuel Breaks on Driveways, **(D)** Turnarounds, **(E)** Bridges & Culverts, **(F)** Gates & **(G)** Signs
Improved Expanded Dwellings	**Defensible Space** – **(A)** Fire fuel break & **(B)** Minimum of 50 feet to unmanaged lands around structures **Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks, **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities& **(B.5)** Stand Pipe **Access** – **(C)** Physical Clearance and Fire Fuel Breaks on Driveways, **(F)** Gates& **(G)** Signs
Accessory Buildings	**Siting** – **(A)** Avoid slopes > 40% & **(B)** Set back from top of slopes > 30% **Defensible Space** – **(A)** Fire fuel break **Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities & **(B.5)** Stand Pipe **Access** – **(C)** Physical Clearance & Fire Fuel Breaks on Driveways, **(F)** Gates & **(G)** Signs

Accessory or Agricultural Structures/building	**Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks **(B.2)** Screened Exterior Openings, **(B.3)** Overhanging trees, **(B.4)** Underground Utilities, **(B.5)** Stand Pipe
Land Divisions	**Fire Mitigation Plan** shall be submitted identifying all home sites, building envelopes, and access as necessary to demonstrate compliance with all applicable fire standards on proposed lots.
Remodeling which does not require a Review	**Construction Standards** – **(A.1)** Roofing, **(A.2)** Spark Arresters, **(B.1)** Clear Clean & Protected Decks **(B.2)** Screened Exterior Openings

3. Applicability of Defensible Space Standards not associated with new development.— Wasco County recognizes the benefits of thinning and hazardous fuel reductions not associated with new development and encourages land owners to work with local, state and federal agencies to achieve this subject to the following limitations:

a.– General Management Area

(1) This is allowed without review as long as there are no existing conditions on a review to prohibit it.– Check with the Wasco County Planning Department to verify this.

b. Special Management Area

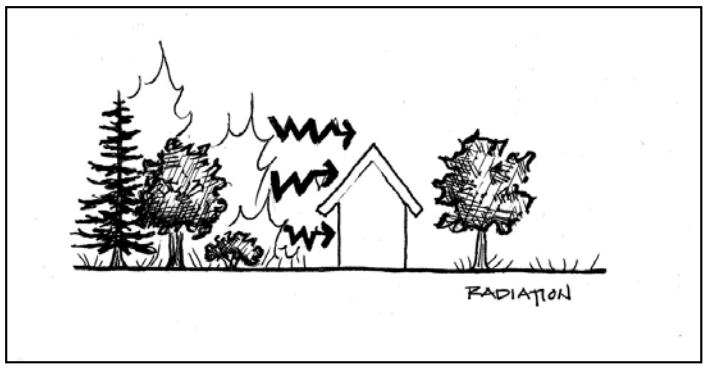
(1)— Non-ground disturbing defensible space work within 50 feet of a lawfully established building consisting of brush pruning/trimming, tree limbing, removal of hazard trees (as defined in Section 1.200) and other activities outlined in Section 11.120 (A) that are not considered forest practices is allowed without review as long as there are no existing conditions on a review to prohibit it.— Check with the Wasco County Planning Department to verify this.

(2) Ground disturbing activity or removal of non-hazard trees falls within the definition of a "Forest Practice" and must be approved through a review prior to the commencement of any work.

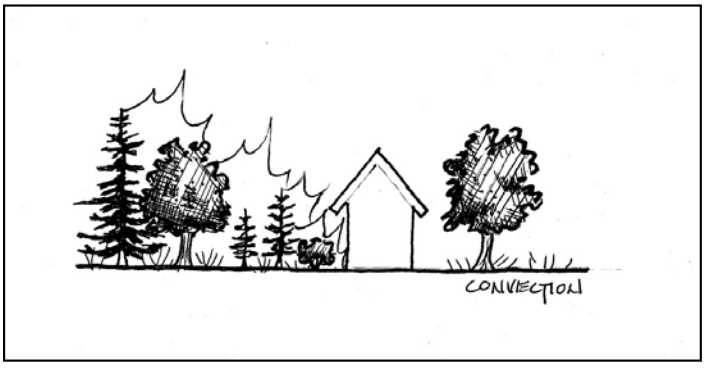
SECTION 11.030– Introduction

A.– Cause of Wild Land and Fire Spread and Residential Starts

1. Radiated Heat – Fires are started by heat that radiates or spreads out from flames, (e.g., run your finger above a candle flame).— Flames of every size radiate heat. Smaller ground level flames radiate less heat than larger flames generated by crown fires. The larger the flames near a structure the greater the chance of the structure being ignited by radiant heat.– Radiant heat is also hotter above the flames than it is beside the flame so where a structure is located on a slope can also affect the risk of a structure igniting from radiated heat from a wild fire.

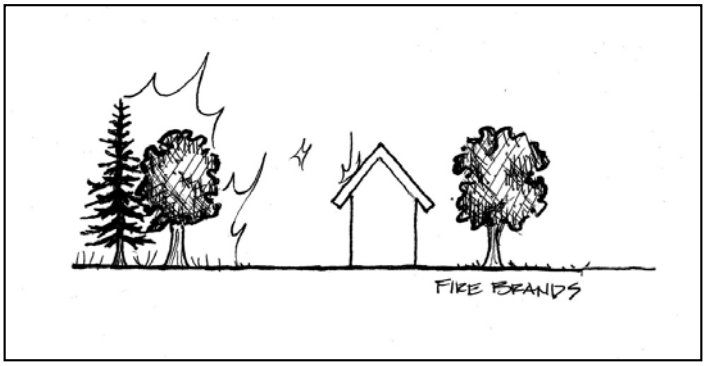


2. Convection or Direct Contact with Flames – Fires are also ignited by direct contact between the structure and the flame. When flammable material (wood piles, shrubbery, dead leaves, or grass) accumulates under eaves or decks or near the house, the structure is exposed to a much greater risk of ignition as the flammable fuel will feed the flames right at the structure.



3. Firebrands or Contact with Flying Embers – Fires can start from burning embers carried aloft from as far away as a mile or more. Fire brands are most dangerous when they:

- **a.** Land on flammable roofs or decks,
- **b.** Settle or are sucked into openings in eaves, soffits, roof vents, under decking, or in crawl spaces through foundation vents, or
- **c.** Fall on and ignite nearby vegetation or flammable materials, especially if stored or accumulated under eaves, decks, or other structural extensions that can trap the heat generated by the burning of flammable materials.



B. What's Necessary to Defend Against Wild Land Fire?

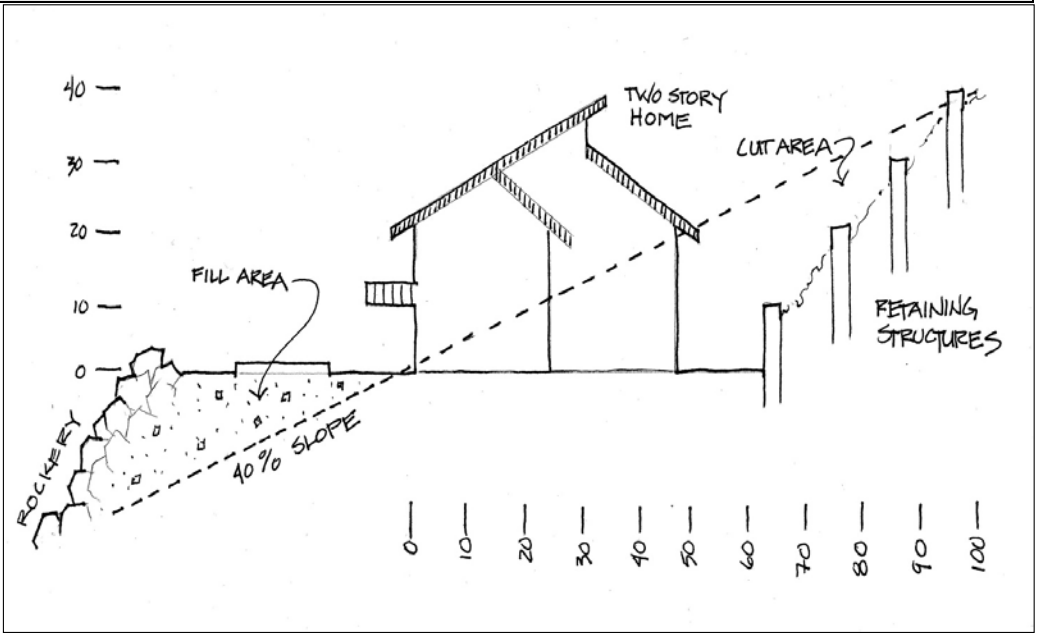
1. Access to structures and property.
2. Room to maneuver around structures.
3. Elimination and containment of fire fuels to limit ignition risks around the structure.
4. Use of fire resistant materials to decrease ignition risks at the dwelling or structure.
5. On-site water supplies to help extinguish a small fire before it requires a full response or becomes a wild land fire start.

C. Fire Safety Standards

Sections 11.110 to 11.150 of this chapter state the Fire Safety Standards on one page. The zones in which the safety standards apply, the benefits of compliance with safety standards, and the necessary actions if an applicable standard cannot be met are stated on the facing pages. Sections 11.210 to 11.240 describe the review and self-certification process and necessary steps to permitting a modification of fire safety standards.

SECTION 11.110– <u>Siting Standards - Locating Structures for Good Defensibility</u>

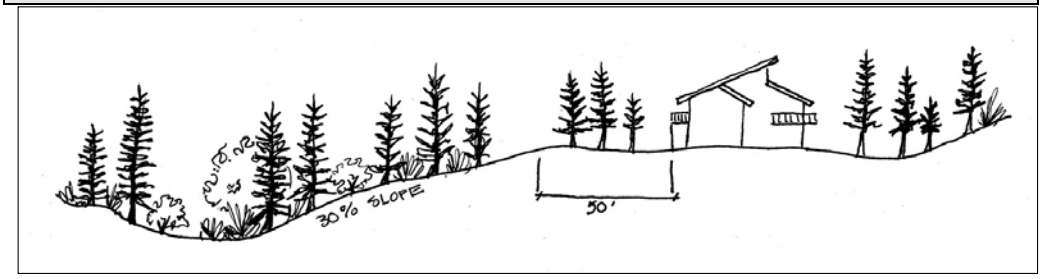
A. Does your building avoid slopes steeper than 40% (more than 40-foot elevation gain over 100 feet horizontal distance)?



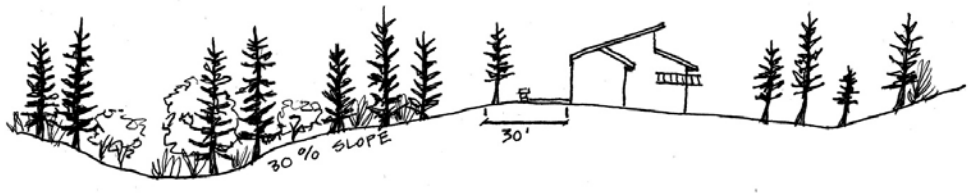
A.– This Standard is applicable to dwellings, accessory buildings, and agricultural buildings in: – – – -All zones	
A. If <u>Yes</u> Then	**A. If <u>No</u> Then**
• Extensive and costly grading and ground disturbance will be avoided • Emergency responders will have room to access and maneuver around all sides of the structure. • Structure will avoid exposure to the hottest side of fast moving flames climbing the slope • Structure will avoid potential of trapping heat rising off of flames on the slope below.	A modification of fire safety standards must be requested. The fire mitigation plan submitted with the request for modification must propose mitigation measures such as: • Structural fire proofing (thermal windows, smaller windows, fire retardant building materials on all sides). • National Fire Protection Association (NFPA) Sprinkler system if access standards cannot be met. • Expanded fire fuel breaks. • Additional irrigation on all sides of the home and an onsite water supply capable of running the irrigation system for extended periods. • Evacuation plan.

B. Setbacks

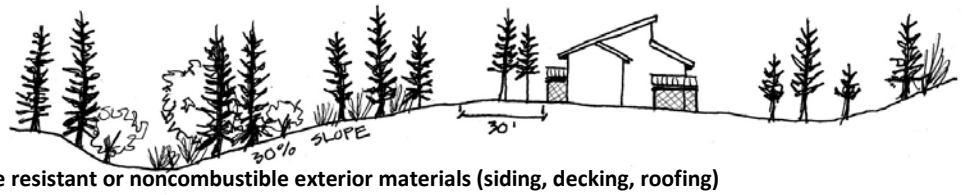
1. **Is your building set back from the top of slopes greater than 30% by at least 50 feet? -or-**



2. **Is your building set back from the top of slopes greater than 30% at least 30 feet? -and-**



No structures or other extensions closer than 30 feet from top of slope
Stone or Concrete patio rather than above ground decking
Enclosed soffits
-OR-

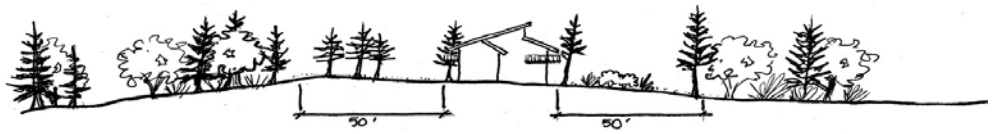


Fire resistant or noncombustible exterior materials (siding, decking, roofing)
Large timber or metal supports for decks or other extensions
Decking area screened or enclosed
Enclosed soffits

B. This Standard is applicable to dwellings, accessory buildings, and agricultural buildings in: -Resource and Large Lot Residential Zones	
B(1). If <u>Yes</u> Then	**B(1). If <u>No</u> Then**
• Emergency responders will have room to access and maneuver around all sides of the building. • Building will avoid exposure to the hottest side of fast moving flames climbing the slope. • Building will avoid trapping heat rising off flames below.	Refer to **B(2)** below.
B(2) - If <u>Yes</u> Then	**B(2) - If <u>No</u> Then**
• Emergency responders can still access and maneuver around all sides of the building. • Building will be closer to the hottest side of fast moving flames climbing the slope but additional fire proofing of the building will help mitigate risks of ignition. • Flattening the design of the façade on the downhill side of the building will help avoid potential of trapping heat rising off of flames on the slope below allowing the building to be constructed nearer the top of slope.	A modification of fire safety standards must be requested. The fire mitigation plan submitted with the request for modification must propose mitigation measures such as: • Eliminate decks and eaves. • Structural fire proofing (thermal windows, smaller windows, fire retardant building materials on all sides). • NFPA Sprinkler system if access standards cannot be met. • Expanded fire fuel breaks. • Additional irrigation on all sides of the home and an onsite water supply capable of running the irrigation system for extended periods. • Evacuation plan.

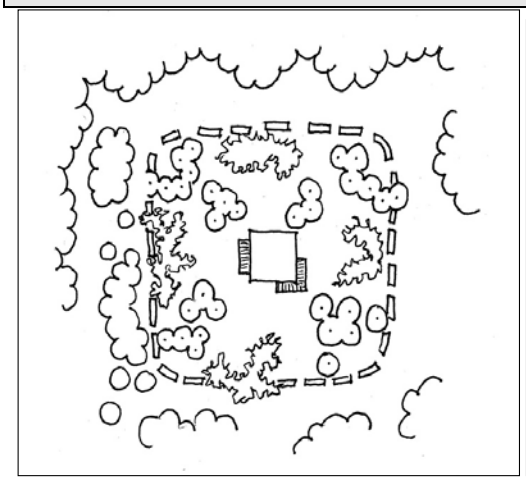
SECTION 11.120– Defensible Space – Clearing and Maintaining a Fire Fuel Break

-DEFENSIBLE SPACE



Fire Fuel Break Includes: Irrigated fire resistant domestic plantings, low volume slow burning plantings, and trees encouraged to provide shade and ground cooling. Trees should be grouped. Groups of trees shall be spaced to avoid creation of a continuous tree canopy. Trees shall be kept in healthy fire resistant condition. Trees shall be limbed up to create a vacant area between ground fuels and canopy fuels. Under story vegetation shall be minimized and ground cover shall be kept trimmed low to the ground.

A. Is your building surrounded by a 50-foot wide fire fuel break?



Fire Fuel Break Area Plan View



Fire Fuel Break Area Sample Illustration

MAINTENANCE STANDARDS FOR FIRE FUEL BREAK AREA:

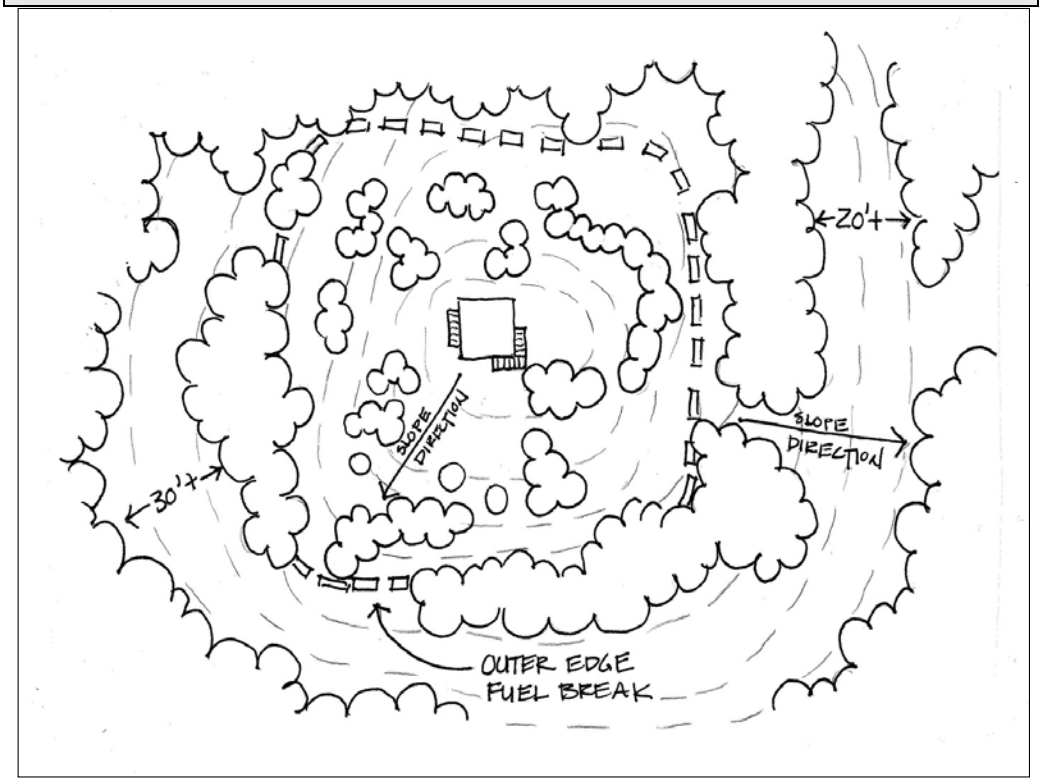
- Ground cover maximum 4inches tall;
- Trees limbed up approximately 8 feet from the ground,
- Trees kept free from dead, dry, or flammable material;
- Ladder fuels must be removed;
- No shrubs or tall plants under trees;

• Shrubs only in isolated groupings that maximize edges of ornamental beds to avoid continuous blocks of ground fuel; • Keep shrubs and ornamental beds 15 feet away from edge of buildings and drip line of tree canopy; and • Use well irrigated or flame resistant vegetation (See OSU Extension Service publication called "*Fire Resistant Plants for Oregon Home Landscapes*")
A. This standard is applicable to all dwellings, accessory buildings, and agricultural buildings in: -All Zones

A. If <u>Yes</u> Then	**A. If <u>No</u> Then**

• Eliminating ladder fuels and limbing trees up helps keep fire on the ground.
• Including trees in the fire fuel break can catch and deflect flying embers before they land on the structure.
• Spacing between bedding plants or shrub groupings allows ornamental plantings that do not create a fuel bed.
• Irrigation provides moisture during the dry months and shading from healthy limbed trees retains moisture longer. Moisture is key to helping dissipate fire energy.
• Fire resistant vegetation also helps slow spread of fire toward the structure.
	A modification of fire safety standards must be requested.
	
	The fire mitigation plan submitted with the request for modification must document that the fire fuel break cannot be met:
	
	• Demonstration why an alternate site on the property cannot be used to allow for the full fire fuel break.
	• Demonstration that an easement allowing for the full fire fuel break cannot be provided for by easement on adjoining land
	• The fire mitigation plan submitted with the request for modification must also propose mitigation measures such as:
	  • Eliminate decks and eaves.
	  • Structural fire proofing (thermal windows, smaller windows, fire retardant building materials on all sides).
	  • Additional irrigation on the side of the home where fire fuel break width requirements cannot be met and an onsite water supply capable of running the irrigation system for extended periods.
	  • Evacuation plan.

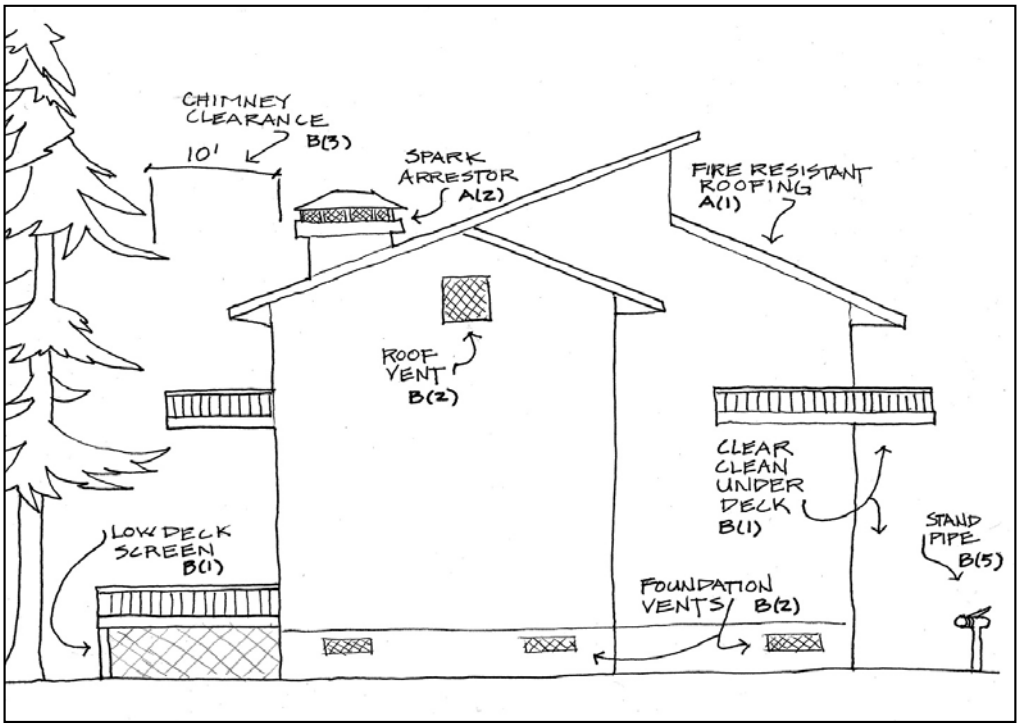
B. Is dense unmanaged vegetation <u>beyond 50 feet</u> from the outer edges of your buildings, including any extensions such as decks or eaves, kept to a <u>MINIMUM</u>?– If located on steeper ground, have you created and maintained some clearings beyond the 50 feet fire fuel break?



- Those developing steeper properties are ***<u>advised</u>*** to provide breaks in the tree canopy across the slope at the outer edges and extending beyond the fire fuel breaks.
- Land beyond the fire fuel break can always be managed for additional safety.
- This is the place for tight trees, dense under-story vegetation, tall waving grass, and unmanaged or less managed lands.
- The outer edge of the fuel break zone can be feathered back into the unmanaged area to provide for a more natural appearing edge condition.

B. This Standard is applicable to all dwellings accessory buildings, and agricultural buildings in: -Resource and Large Lot Residential Zones **This Standard does not apply to SMA Lands:** Any defensible space work beyond 50 feet of a lawfully established building falls within the definition of a "Forest Practice" and must be approved through a review prior to the commencement any of work.	
B. If <u>Yes</u> Then	**B. If <u>No</u> Then**
• If slopes cannot be avoided, providing for broad breaks in the canopy across the slope 20-30 feet and more can help limit the spread of a canopy fire up slope. • Keeping some wild unmanaged areas is OK if they are far enough from the structure that a wild fire's progress will be slowed by the decrease in fire fuels as fire approaches developed areas. • **<u>NOTE:</u>** Slope hazards increase the threat of structural fire ignition by increasing the chance of a wild land fire getting into and traveling through the tree canopy. If you are developing in a wooded area with steep slopes, every attempt should be made to locate away from the steeper ground. (see 11.110(A) and (B) above)	This standard is advisory. No request for modification of fire safety standards is required if it cannot be met.

SECTION 11.130 Construction Standards for Dwellings and Structures – Decreasing the ignition risks by planning for a more fire-safe structure.



A. Is your building designed, built, and maintained to include the following features and materials necessary to make the structure more fire resistant?

1. Roof Materials: Do you or will you have fire resistant roofing installed to the manufacturers specification and rated by Underwriter's Laboratory as Class A, B, or its equivalent (includes but not limited to: slate, ceramic tile, composition shingles, and metal)?

NOTE: Fire resistant materials are required to be used for all horizontal projections. To give your structure the best chance of surviving a wild fire, all structural projections such as balconies, decks and roof gables **shall** be built with fire resistant materials equivalent to that specified in the uniform building code.

2. Spark Arrestors: Will all chimneys and stove pipes be capped with spark arresters meeting NFPA standards (e.g., constructed of 12 USA gauge wire mesh with half-inch openings)?

A(1) & (2)— These Standards are applicable to all dwellings, accessory buildings, and agricultural buildings in: – – – – – – – – – – -All Zones	
A(1).– If Yes Then	**A(1).– If No Then**
Your roof will resist ignition from fire brands. Fire resistant roofing is one of the most important standards of defensibility.	Fire resistant roofing is required.– There is no way to mitigate risks of a wild land fire ignition related to use of more flammable roofing.– Fire brands can be carried over a quarter mile to land on a roof.
A(2). If Yes Then	**A(2).– If No Then**
Sparks and embers in the fire box of a fireplace or stove will not be allowed to escape through the chimney and start a wild land fire.	There is no alternative to the requirement that spark arrestors be installed and maintained.— They are common and widely available.

B. Is your structure designed, built, and maintained to include the following features and materials necessary to make the structure more fire resistant?

1. Decks: Will all decks be kept clear of fire wood, flammable building material, dry leaves and needles, and other flammable chemicals? Will decks less than three feet above ground also be screened with noncombustible corrosion resistant mesh screening material with quarter inch or smaller openings? Will decks, as required in accordance with 11.110(B) above, be built of fire resistant material? Will all flammables be removed from the area immediately surrounding the structure to be stored 20 feet from the structure or enclosed in a separate structure during fire season?

2. Openings: Will all openings into and under the exterior of the building including vents and louvers, be screened with noncombustible corrosion resistant mesh screening material with quarter inch or smaller openings.

3. Trees: Will all trees overhanging the building be limbed up 8 feet in accordance with fire fuel break requirements in 11.120(A) above, kept trimmed back 10 feet from any chimney or stove pipe, and be maintained free of all dead material.

4. Underground Utilities:— **Utility** ~~Telephone and power~~ supply systems serving new development shall be underground whenever practical.

   Do all new buildings and structures served by electricity include a clearly marked power disconnect switch at the pole or off-grid power source?

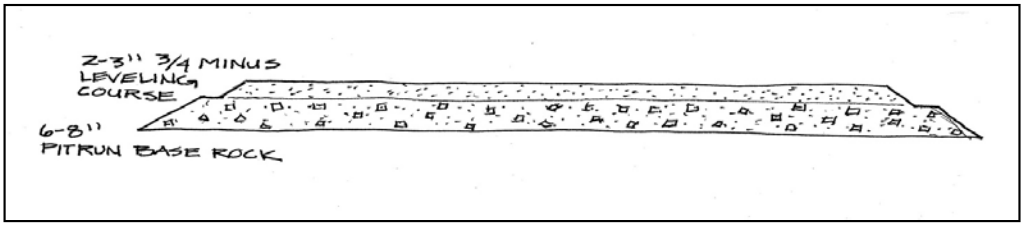
5. Stand Pipe:– Will a stand pipe be provided 50 feet from the dwelling or any structure served by a plumbed water system?	
B. These Standards are applicable to dwellings, accessory buildings, and agricultural buildings or structures in: – – – -All Zones	
B(1).– If Yes Then	**B(1).– If No Then**
Horizontal extensions, like decks, will be protected from the accumulation of fire fuel. Horizontal extensions create a heat trap for heat if flames are generated beneath them. Limiting fire fuels under horizontal extensions and screening to keep embers or fire bombs from getting in under lower decks will help eliminate the risk of heat being trapped under a deck or porch and igniting a structure.	There is no alternative to the screening and maintenance required under and around the exterior of a structure, its decks, and other horizontal extensions.
B(2).– If Yes Then	**B(2).– If No Then**
Vents are built to funnel air through enclosed areas of a structure.– Screening on the vents or behind vent louvers ensures that embers are not sucked into the hard-to-reach recesses behind the vents.	There is no alternative to the screening of exterior vents and openings.
B(3).– If Yes Then	**B(3).– If No Then**
Healthy green trees around the house can be retained and may actually help shelter the dwelling from fire brands. Trees and their debris must be maintained in a clean healthy condition.	If maintenance of trees near or overhanging the house is too onerous the trees can be removed. **NOTE**: The presence of trees has been shown to have the benefits discussed in 11.120(A), above, if properly maintained.
B(4). If Yes Then	**B(4).– If No Then**
• Threat of a fire start due to downed service lines will be minimized. • Access to and around the structure will be simplified by limiting aerial access to the structure to a single location. • Responders will be able to shut down main power so they can respond safely to the structure at the main service switch.	The fire mitigation plan submitted with the request for modification must document that it is not practical to underground utilities and propose measures such as: • Keeping the utility service routes clear to simplify access around the structure. • Providing a single point of access to the structure. There is no alternative to the requirement that private utility services have a clearly marked power disconnect switch at the pole or off grid power source.
B(5).– If Yes Then	**B(5).– If No Then**
This stand pipe will be available to the homeowner for use to help contain smaller fires prior to emergency responders getting to	There is no alternative allowed to the provision of a standpipe 50 feet from all combustible structures served by a plumbed water system. Rural response

the site.	times are always longer than in town.— Land owners must do what they can to provide immediate response to small fire starts.

SECTION 11.140– <u>Access Standards - Providing safe access to and escape from your home.</u>

A.— Does your residential driveway meet standards for improved, all weather driveway surface and minimum driveway widths?

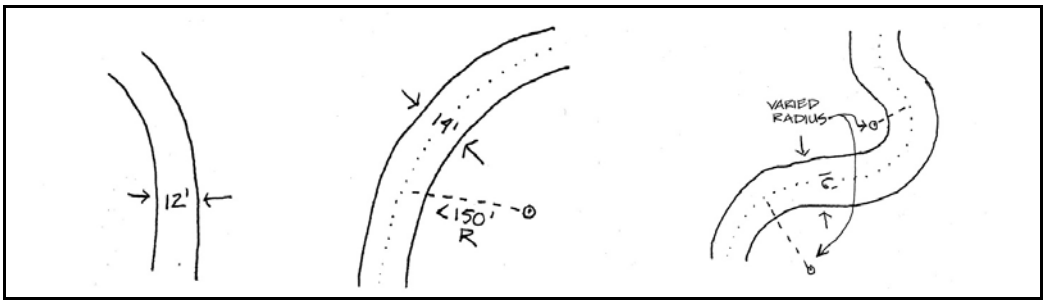
IMPROVED SURFACE REQUIREMENTS



– 90-95% Compaction

Driveway surface standards shall meet the specifications above or meet an alternate design standard established by a licensed engineer who will certify that the alternate design standard is capable of supporting 75,000 pound gross vehicle weight year round, wet or dry. Compliance shall be demonstrated prior to inspection by the County Road Department to confirm compliance with road approach permit.

MINIMUM DRIVEWAY WIDTHS

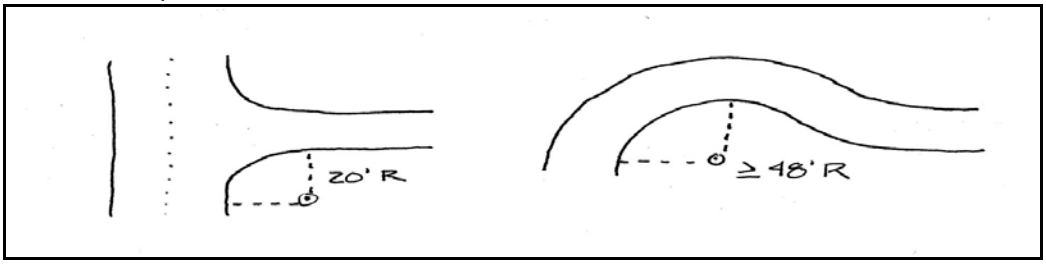


Minimum improved width– – – – – – – – – – – – Minimum improved width– – – – – – – – – Minimum improved width
is 12 feet on straight sections– – – – – – – – is 14 feet on single curves– – – – – – – – – is 16 feet when curves are
and through gentle curves. – – – – – with less than 150-foot radius.– – – – linked or located on a slope
– – in excess of 10%.

A. This Standard is applicable to residential driveways in: – – -All Zones	
A. If <u>Yes</u> Then	**A.– If <u>No</u> Then**
Emergency responders will be able to bring all vehicles onto your property and to your building site.	A modification of fire safety standards must be requested. The fire mitigation plan submitted with the request for modification must propose mitigation measures such as: • A demonstration why standards cannot be met and that an alternate site will not allow standards to be met. • Proposed alternate road lay out that can allow the best access possible to the building site. • NFPA Sprinkler system if alternate access standards cannot provide for timely response. • Expanded fire fuel breaks. • Additional irrigation on all sides of the home and an on-site water supply capable of running the irrigation system for extended periods. • Structural fire proofing (thermal windows, smaller windows, fire retardant building materials on all sides). • Evacuation plan and acknowledgment that some or all fire equipment may not have sufficient access to your property to respond.

B. Is your dwelling accessed by a driveway with curves and slopes that are passable by emergency equipment? And are turnouts provided as needed to allow vehicles to pass safely?

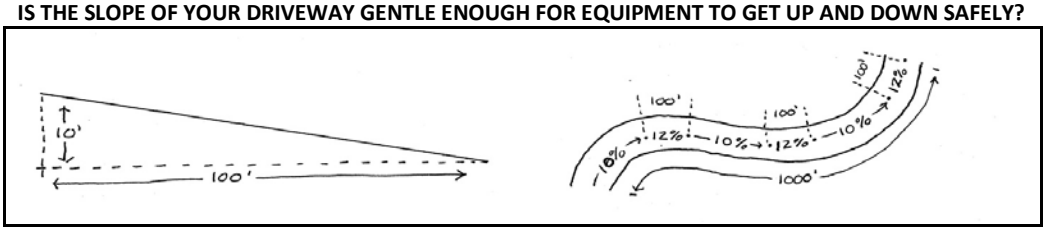
CAN LARGE EQUIPMENT MAKE IT AROUND THE TURNS IN YOUR DRIVEWAY?



Minimum 20 foot turn radius onto driveway– – – – – – – – – – – Minimum 48 foot turn radius for curves or

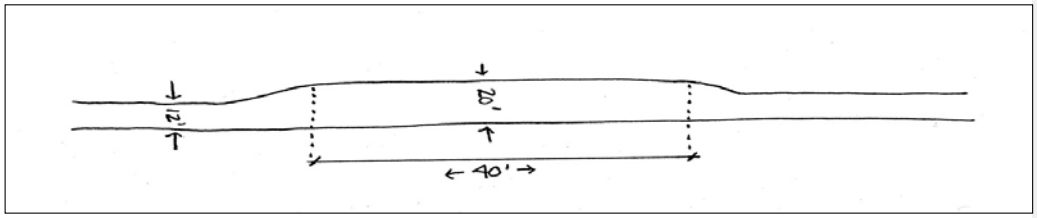
from road. switchbacks in the driveway. Larger radius, more gentle turns are desirable where possible.

IS THE SLOPE OF YOUR DRIVEWAY GENTLE ENOUGH FOR EQUIPMENT TO GET UP AND DOWN SAFELY?



Maximum steady grade of 10% or 10 feet of elevation gain over 100 feet of distance. Maximum steady grade of 10% may be exceeded for short pitches. Short (up to 100-foot lengths) intermittent sections may be up to 12%. No more than three 100-foot lengths in 1,000 feet.

IF YOUR DRIVEWAY IS LONGER THAN 200 FEET, ARE TURNOUTS PROVIDED ALONG ITS LENGTH?

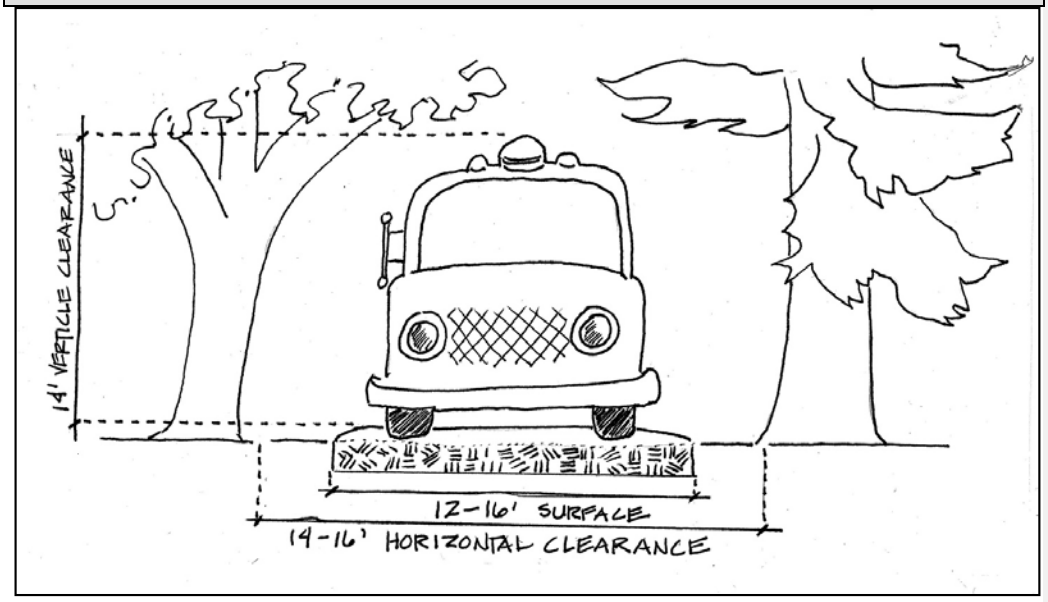


Turnouts need to be provided at least every 400 feet. Turn outs are intended to allow vehicles to pass safely, especially during an emergency. This should be kept in mind when siting the turnouts. Steeper slopes or tighter corners may require turnouts to be located closer than every 400 feet.

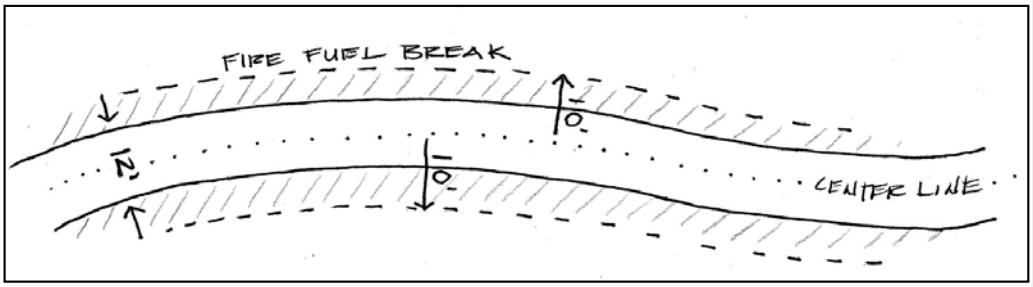
B. This Standard is applicable to all residential driveways in: -All Zones	
B. If Yes Then	**B. If No Then**
• Emergency responders will be able to bring all vehicles onto your property and to your building site.	See **(A) above**

• You will be able to get off your property as the fire equipment accesses the site.	

C. Does your residential driveway provide adequate clearance for emergency vehicles and is there sufficient clear area along the driveway to allow responders to maneuver safely around their vehicles?



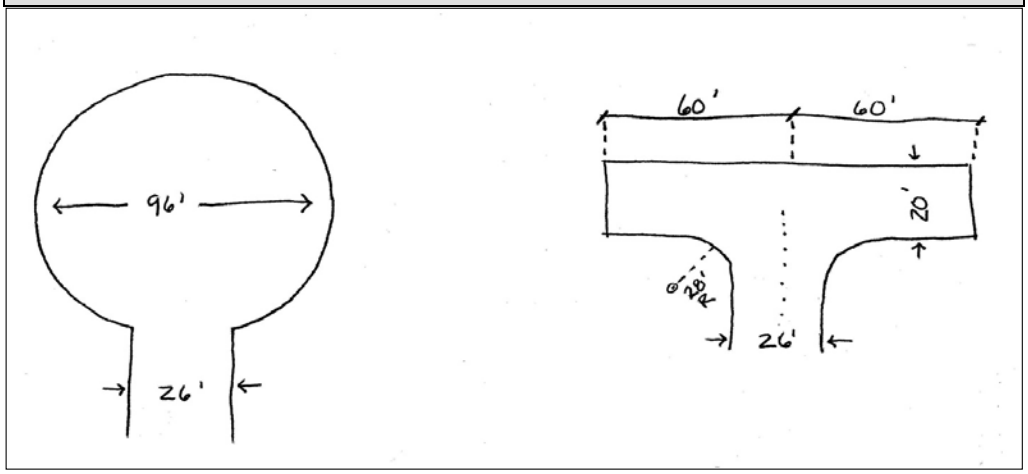
Responding vehicles need over 13 vertical feet and a minimum of 14 horizontal feet of clearance to pass through vegetation along a driveway.



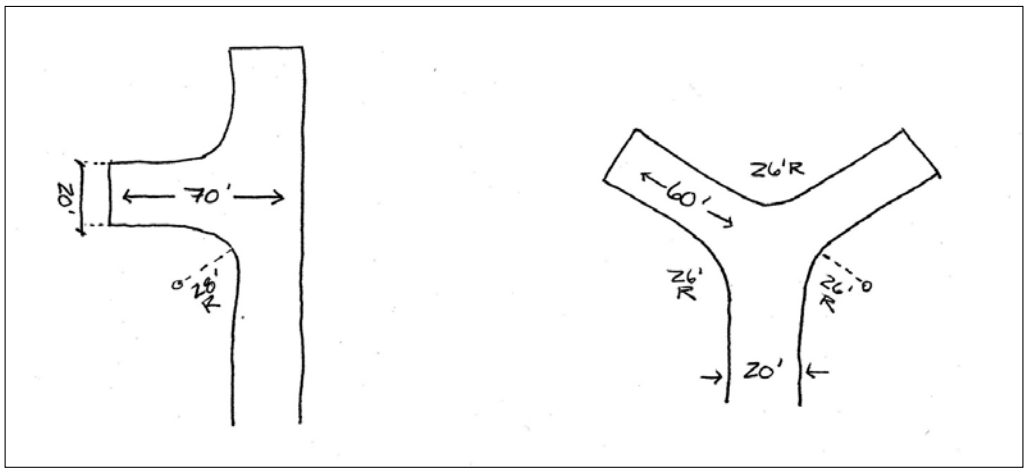
A fire fuel break extending 10 feet either side of the center line of the driveway is required.

C.– This Standard is applicable to all residential driveways in: – – – -All Zones	
C.– If <u>Yes</u> Then	**C.– If <u>No</u> Then**
• Emergency responders will be able to access your property without damaging your landscaping, native trees, or their vehicles. • If there is a need to respond from the driveway, there will be room to maneuver more safely around the emergency vehicles. • If there is a major wild land fire, the fire fuel break along the drive will help ensure that the driveway remains passable during the response.	See **(A) above**

D. If your residential driveway is longer than 150 feet, does it end with a turnaround that is passable for emergency responders?



95-foot-diameter cul-de-sac – – –

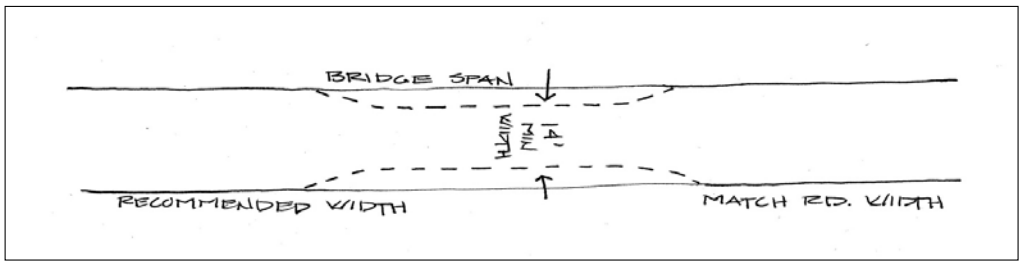


Acceptable alternative to 120' hammerhead – – – – – – – – – – – – Acceptable alternative to 120-foot hammerhead

D. This Standard is applicable to residential driveways in: – – -All Zones	
D.– If <u>Yes</u> Then	**D.– If <u>No</u> Then**
Responders accessing your property in an emergency will be able to get turned around to leave the property, make room for additional responders, or to refill tenders and return.	See **(A) above**

E.— Can the bridges or culverts crossed to access your dwelling on your property accommodate emergency response vehicles?

Culverts larger than a 6-foot diameter and all bridges that are relied on to access development must be engineered constructed and maintained to support 75,000 pounds gross vehicle weight.— Culverts less than a 6-foot diameter must be installed to manufacturer specifications, including requirements that the culvert be embedded sufficiently to maximize water flow and minimize risk of scouring or undercutting below the pipe.



Bridges should match the finished width of the road or driveway. A minimum bridge width of 14 feet is required and may be built if 7-foot-wide and 50-feet-long pullouts are provided on either side of the bridge.

F. Can emergency responders get through your gate?	
• Gates need to swing or glide. • Gates need to be operable by a single person and maintained in operable condition. • The horizontal clearance through a gate must be a minimum of 14 feet. • Electric or locked gates must be operable or removable by emergency responders.	
G. Are the signs you've posted for emergency responders legible and in good repair?	
Signs required to: • Limit parking. • Mark fire lanes. • Direct responders to an on-site water source. • Identify electrical service shut-off at the power pole or off grid power source. • Post weight limits on existing bridges or culverts. Must be made and maintained so that: • Lettering is light colored and reflective against a dark background – except that red and white 12 inch by 18 inch fire lane, no parking signs Per Figure D(103.6) of the 2004 Oregon Fire Code. • Letters are a minimum of 4 inches tall. • Letters are a minimum of ½-inch-wide-letter strokes. Signs are posted and kept clear of vegetation so they are fully visible.	
E. This Standard is applicable to residential driveways in: -All Zones	
E. If <u>Yes</u> Then	**E. If <u>No</u> Then**

Emergency responders will be able to get to or through your property without risk of damage to equipment or roadway structures.	A modification of fire safety standards must be requested. The fire mitigation plan submitted with the request for modification must propose mitigation measures including: • Any culvert greater than a 6-foot diameter or bridge not capable of supporting 75,000 gross vehicle weight shall be signed at both entrances. • Other applicable mitigation measures listed in **(A)** above.

F. This Standard is applicable to residential driveways in: -All Zones	
F. If <u>Yes</u> Then	**F. If <u>No</u> Then**
Emergency responders will be able to access your property.	No alternatives exist for the requirement for a passable gate.
G. This Standard is applicable to residential driveways in: -All Zones	
G. If <u>Yes</u> Then	**G. If <u>No</u> Then**
Emergency responders will be able to access and navigate your property and the development site.	No alternatives exist for the requirement for that clear and legible signage be installed and maintained.

H. Are the roads to your residential property maintained in a condition that is passable for emergency vehicles? Do you know who is responsible for required improvements and maintenance?
DEFINITIONS – WHO IMPROVES AND MAINTAINS WHICH EXISTING ROADS? <u>County Roads are</u>: • Fully dedicated public roads over which the County has full jurisdiction. • The County is responsible for improvements and maintenance of county roads including bridges,

culverts, ditches, etc.
- Most, if not all, public roads in the county meet the minimum access requirements for emergency vehicles.

Local Access Roads are:
- Public roads over which the County has limited jurisdiction.
- The County is not liable for failure to improve the local access road or keep it in repair.
- The County has limited ability to spend money on local access roads and expenditure on local access roads is made only in emergencies and is subject to special review process prior to the expenditure.
- Landowners served by the road must improve or maintain the road if it is to stay in good repair.
- Some local access roads have organized maintenance organizations but most do not.
- Many local access roads meet minimum access requirements but some will require improvements in order to be accessible to emergency responders and all will require maintenance.

Private Roads are:
- Neither public roads nor county roads.
- The County cannot improve or maintain private roads.
- Private roads serve more than one dwelling but are not required to be open to the public.
- The land owners served by the private road are solely responsible for its improvement and maintenance.
- Many private roads will require improvements in order to be accessible to emergency responders and all will require maintenance.

Driveways are:
- Private access roads serving no more than two dwellings.
- The home owner bears sole responsibility for driveway improvement and maintenance.

Per ORS 368.001-368.031

ACCESS ROAD STANDARDS – WHAT MAY HAVE TO BE DONE TO ROADS LEADING TO BUT NOT PART OF YOUR PROPERTY?
If a legally created parcel is accessed by a County or State improved and maintained road, the applicant must demonstrate that driveway standards are met on the property and is responsible for continued maintenance of the driveway in accordance with standards.

If a legally created parcel is accessed by a local access or private road the road way will need to be determined to meet county road standards or minimum standards for a fire apparatus access road (defined in Chapter 5 of the 2004 Oregon Fire Code) prior to new construction. A fire apparatus access road needs to have an improved all-weather surface of 20-feet wide or sections of the road with a finished road surface width of 20 feet for a length of 40 feet at no greater than 400-foot intervals. All access standards, other than width, turn radius, and slope or grade that are applicable to driveways, **(A) – (H),** are also applicable to local access and private roads. Improvements made within a local access road will require a permit to do work in a public right of way.

Land divisions creating new parcels need to improve roads up to the point of access to the proposed land division to meet public road standards prior to final land division approval.

H. This Standard is applicable to residential development in: -All Zones	
H. If <u>Yes</u> Then	**H. If <u>No</u> Then**
Emergency responders will be able to get to your property with any vehicle at a reasonable rate of speed with little risk of damage to equipment or roads.	A modification of fire safety standards must be requested. The fire mitigation plan submitted with the request for modification must: • Employ applicable mitigation measures listed in **(A)** above. -AND- • Demonstrate that county road or fire apparatus access road standards cannot feasibly be met. • Demonstrate that improvements achieve basic access (driveway standard) along sections determined incapable of meeting a higher standard. • If basic driveway standard is not met at any point, that section shall be clearly signed from both directions calling out the weight limit, width of narrow road section, or grade and length of steep road way. • Ability of responders to get to a site is limited by the ability of an applicant to make and maintain off-site improvements. • The land owner will be notified of service limitations resulting from substandard access and required to document acknowledgement of limitations to emergency services prior to receiving a building permit.

SECTION 11.150– <u>Fire Protection or On-Site Water Required</u> - Ensuring dwellings have some fire protection available through manned or unmanned response.

DEFINITION - FIRE DISTRICT FOR PURPOSE OF APPLICATION OF FIRE STANDARDS.
An actively trained and reporting structural fire protection district having a boundary on file with the State Fire Marshal and recognized as a qualified structural fire protection district by the State Fire

Marshal's Office.

A. Are you proposing to construct a dwelling inside a structural fire protection district? -OR-
ON SITE WATER IS REQUIRED IN BOTH URBAN AND RURAL ENVIRONMENTS FOR FIRE SAFETY (Fire Flow Requirements). **Dwellings less than or equal to 3,500 square feet** can rely on emergency responders to meet the on site water requirements if they are inside a fire protection district. **Dwellings in excess of 3,500 square feet** require on-site water in excess of the amount of water that could reasonably be delivered to the site by emergency responders. Dwellings in excess of 3,500 square feet need to provide an NFPA sprinkler system to meet on site water requirements. Provision of an NFPA sprinkler system meets fire code fire flow requirements. **Structures must be located inside a structural fire protection district if possible.** It is not possible to be in a fire protection district when it is demonstrated that the dwelling cannot locate within, annex into a district, or contract with a structural fire protection district for service **Agricultural structures and buildings and other accessory buildings in the Forest Zones,** not otherwise provided with onsite water for fire protection, must meet the minimum standards for onsite water required by the Management Plan. A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided.
A. This Standard is applicable in: -All Zones - as specifically noted in the standard

A. If Yes Then	**A. If No Then**
• A special taxing district exists and volunteer or professional fire fighters will respond to and defend a structure to the best of their ability. • Installation of an NFPA-approved sprinkler system meets the fire flow requirements for rural structures when a responders' ability to bring water to the site cannot. (See other benefits of NFPA sprinkler systems in **(B),** below.)	Refer to **(B),** Below

B. Are you proposing to construct a dwelling outside a structural fire protection district?
ON-SITE WATER IS REQUIRED IN BOTH URBAN AND RURAL ENVIRONMENTS FOR FIRE SAFETY EVEN

OUTSIDE A STRUCTURAL FIRE PROTECTION DISTRICT (Fire Flow Requirements).

Dwellings can be located outside a structural fire protection district upon demonstration that the parcel or home site cannot locate within, annex into, or contract with a structural fire protection district for service. If a dwelling is proposed outside a structural fire protection district, you cannot rely on emergency responders to meet the fire code fire flow requirements. Providing an NFPA sprinkler system is required to meet fire flow requirements unless a request for modification of the fire safety standards has been requested and approved.

Dwellings in the Forest Zones and outside a structural fire protection district must provide a year-round on-site 4,000 gallon water source, or access to a stream or spring having continuous year-round flow of at least 1 cubic foot per second.

- The applicant must provide a written statement from Oregon Water Resources Department verifying that permits or registrations required for any water diversion or storage have been obtained or are not required.
- Driveway access and a turnaround meeting the access standards in Section 11.140 must be extended to within 10 feet of the water source.
- Permanent signs shall be posted directing emergency vehicles to approved water sources.

Agricultural structures and buildings and other accessory buildings in the Forest Zones must meet the minimum standards for onsite water required by the Management Plan. (see **(A).** above

C.– This Standard is applicable in:
– – – -All Zones - and as specifically noted in the standard

B.– If Yes Then	**B.– If No Then**
• Provision of an NFPA sprinkler system does not rely on a responder's presence to function and can often extinguish a small ignition before it grows to the point where a large-scale response is necessary. • Meeting fire flow requirements for larger structures can require an on-site water source of 8,000 gallons or more (see alternatives to sprinkler system). • Installation of a sprinkler system in site-built homes, particularly larger homes, is often the most affordable way to meet fire flow requirements. Installation of an NFPA approved sprinkler system can save home owners a significant amount on their fire insurance rates and will pay for itself over time. NOTE:— Manufactured homes and historic structures may substitute on site water provision for inclusion of a residential sprinkler system when otherwise required. The county recognizes the disproportionately high cost	If a NFPA sprinkler system is required but cannot be provided, a modification of fire safety standards must be requested. This is necessary because either no structural fire protection will be provided by a recognized district or because the dwelling exceeds the size determined to be defensible by local responders. The fire mitigation plan submitted with the request for modification must include an on-site water source capable of meeting fire code requirements for water supplies in rural settings. Requirements for rural water supplies to meet fire flow requirements are generalized here: • Minimum on site water storage 2,000 gallons • 1,500-3,500 square foot dwelling -

of installation of NFPA sprinkler systems in this type of structure and the limited ability to alter the design of structures when locating a historical structure or manufactured home.——— Applicants locating a manufactured home or historic structure on their property may elect to install an on-site water source meeting the on-site water requirements listed in this subsection.— No request for modification needs to be made for these structures.	4,000 gallons • >3,500-5,000 square foot dwelling - 8,000 gallons • >5,000 square foot dwelling - 13,000 gallons When on-site water is provided to meet fire flow requirements within a fire protection district, the on-site source must be made accessible to responders. When on-site water is provided to meet fire flow requirements outside a fire protection district, then the fire mitigation plan shall include provisions by the home owner for applying the water to the structure in the event of a fire.

Section 11.210– Fire Safety Standard Review Process

A. Compliance with applicable fire safety standards is required by the ordinance for new, replacement, and modified structures in all rural zones.

1. Fire standards shall be made a part of the **conditions** of approval when a conditional use permit, site plan or subject to standards review, partition, subdivision, or other land use action is required prior to construction.

2. Structures or alterations to structures that are subject to ministerial review must also comply with all applicable fire standards prior to receiving zoning approval on a building permit application.

3. In all cases compliance with applicable fire standards shall be self-certified prior to receiving zoning approval on a building permit.

4. Certifications shall be verified within one year of approval and may be verified by staff site visits at any time.

B. Continued compliance with fire safety standards is required.

1. Compliance is the responsibility of the land owner.

2. An illustrative checklist will be provided to land use permit applicants and building permit applicants that explains all necessary steps to comply with applicable fire safety standards.

3. Required compliance with fire safety standards shall be disclosed to future land owners prior to sale of any parcel.

Where fire safety standards, or a modification of the standards pursuant to 11.220 below, are applied through a land use review as conditions of approval, the conditions of approval shall be recorded along with the notice of decision.

Section 11.220– Modification of Fire Safety Standards

If one or more fire safety standard cannot be met, the applicant must request a modification to fire safety standards.— The request for modification shall include a site specific fire safety mitigation plan. The modification of standards review shall be processed in accordance with the procedures in LUDO Section 2.050(A)(3).– Notice prior to the decision shall be provided to fire responders with jurisdiction by the Planning Director.— The decision to approve or deny the request for modification shall meet all public notice requirements.

Section 11.230– Fire Safety Mitigation Plan

A fire safety mitigation plan is required when an applicant needs to request a modification to one or more fire safety standards listed on the self-certification check list. A fire safety mitigation plan is also required for any land division creating lots that can accommodate dwellings.– A fire mitigation plan shall include the following:

A. One or more maps and accompanying narrative statement addressing the following:

1. Site description.

2. Documentation of fire protection service or proposed plan for on-site fire protection.

3. Documentation of on-site water supply where required.

4. Driveway construction plan including gate features, size and locations of bridges or culverts and proposed signage.

5. Documentation of fuel break areas if land on adjoining properties is relied on to meet fuel break requirements.

6. Public or private road plans for new roads to serve proposed land divisions (including location, size, and type of bridges and culverts).

7. Other information deemed necessary to allow adequate review of the request for modification.

B. Statement of need
A clear statement of why the fire safety standards cannot feasibly be met.

C. Risk Assessment
An assessment of increased risk of wildfire damage if standard is modified. Risk assessments shall consider the purpose of the standard that cannot be met, the specific proposal, and site conditions to determine what, if any, additional exposure to wild land fire risks could be created by approval of the modification to fire safety standards. The consideration shall include increased risk of the proposed structure becoming a source of ignition and risks to the proposed structure from a wild land fire ignited elsewhere and traveling through the site.

D. Statement of Additional Action Proposed to Eliminate or Minimize Increased Risks
A clear list of additional measures proposed by the applicant to address any increased risks identified in the risk assessment.

Section 11.240– Review of Requested Modification(s)

A. Planning Director Shall Seek Review

1. The Planning Director shall request and consider the comments and recommendations of local emergency responders, including ODF and the State Fire Marshal's Office when making the final decision on a request for modification of fire safety standards. The complete fire safety mitigation plan shall be forwarded to all commenting responders including the Deputy State Fire Marshal.

2. Comments and recommendations by local responders shall be provided to the Planning Director within 15 days.

B. Responses to the Director's Request for Review

1. Responders' comments and recommendations shall do one of the following:

a. Support the modification with mitigation measures proposed by the applicant.
b. Support the modification with a recommendation for alternate mitigation measures detailed by the responders.

c. Accept the request for modification conditionally though minimum standards cannot be met. This will be done only when the responder commenting on the request cannot recommend feasible means to mitigate risks resulting from approval of the modification. Acceptance of a modification that cannot be fully mitigated or meet minimal standards will also include an assessment of any limitations of service that may accompany approval of the modification.

E.g., an existing off-site bridge is located along a private road accessing the applicant's dwelling and many existing dwellings.— The bridge is weight limited but cannot be feasibly upgraded for the one new home.— One or more responders may require that the weight limit of the existing bridge be determined and clearly posted and they may also elect to notify the current land owner and all other residents that larger responding vehicles will not respond to calls accessed by that bridge.

d. Recommend denial of the requested modification(s) on the grounds that:

(1) The proposed modification is not necessary because standards can and should be met, including consideration and selection of an alternative location for the development.

(2) Approval of the proposed modification will result in undue risk to life and safety.

2. Comments and recommendations from emergency responders shall be supported by reasons sufficient to allow the Planning Director to weigh the evidence and arguments prior to deciding to grant, conditionally grant, or deny a request for modification of fire safety standards.

3. Approval or denial of a modification to standards is not subject to variance criteria in the LUDO.

4. A modification of standards can be reviewed and decided in conjunction with another land use decision where other land use permits are required.

5. Approval of a modification of standards is subject to administrative review, public notice, and the opportunity for further review on appeal under LUDO Section 2.150.

6. Certifications shall be verified within one year of approval and may be verified by staff site visits at any time.

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Chapter 12 – Reserved for Expansion

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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 2.060(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 has ceased.

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 with the following standards:

1. The replacement structure shall **have the same use** ~~be used in the same manner and for the same purpose~~ as the original structure.

2. The replacement structure may have a different size and/or location than the original structure. An existing **manufactured** ~~mobile~~ home may be replaced with a framed residence and an existing framed residence may be replaced with a **manufactured** ~~mobile~~ 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 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** ~~be used in the same manner and for the same purpose~~ as the original structure.~~—~~ An existing **manufactured** ~~mobile~~ home may be replaced with a framed residence.

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

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

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

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

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

   a. The replacement structure shall comply with the ~~scenic resources~~ 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 scenic resources criteria regarding landscaping.~~—~~ These criteria shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable.~~, provided:~~

~~(1) Except as provided in (2) below, the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.~~

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

~~(3) To help determine how much vegetation may be required in (1) and (2) above, land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:~~

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

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

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

~~(4) The height of any new trees shall not be required to exceed 5 feet.~~

~~(5) The time frame for achieving visual subordinance shall be 10 years or less from the commencement of construction.~~

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) ~~The Scenic Resources Implementation Handbook shall be utilized to determine approvable~~ **Use of plant** species **appropriate for the area** and minimum ~~approvable~~ sizes of new trees **needed to achieve the standard** ~~planted~~ (based on average growth rates expected for ~~approvable~~ **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.

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~~**two-year** time frame.

SECTION 13.080– Change ~~To~~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 13.090 Mineral Resource Extraction (GMA Only)**~~

~~In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreational resources of the Scenic Area. These uses will be considered discontinued and subject to the land use ordinances under this Ordinance if:~~

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

~~**B.** The site has not maintained both a required Department of Geology and Mineral Industries Permit and County permit; or~~

~~**C.** The site has not operated legally within five (5) years prior to the date of adoption of the Management Plan.~~

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 14 – SCENIC AREA REVIEW

SECTION 14.010 Purpose

The purpose of the Scenic Area Review is to preserve, protect and enhance the scenic, natural, cultural and recreational values of the Gorge and to assure that development occurs in a ~~manner which~~**manner that** is compatible with its unique qualities.

SECTION 14.020 Complete Application Submittal Requirements for a Scenic Area Review

A. Application Form Requirements

1. Project applicant's name and address.

2. Property owner's name and address if different than 1 above.

3. Location of the proposed use, including township, range, section, and tax lot number.

4. A written description of the proposed use, including details on the height, dimensions, exterior color(s), and construction materials of proposed structures.

5. A list of Key Viewing Areas that are visible from the proposed development site and from which the proposed use would be visible.

6. Legal parcel documentation.

7. Legal structure documentation. Evidence that a structure was lawfully established shall include the following:

a. Wasco County Assessor records verifying the structure was built prior to 4 September 1974; or

b. Any one of the following:

(1) ~~a~~**A** valid Oregon State Building Codes permit signed by the Wasco County Planning Department between 4 September 1974 and 17 November 1986; or

(2) ~~a~~**A** valid Wasco Sherman Health Department septic permit before 1 January 1985; or

(3) ~~a~~**A** valid Land Use Compatibility Statement signed by the Wasco County Planning Department between 1 January 1985 and 17 November 1986, or

(4) National Scenic Area approval by either the Columbia River Gorge Commission, the USDA Forest Service, or the Wasco County Planning Department, after 17 November 1986, and a valid Oregon State Building Codes permit signed by the Wasco County Planning Department.

8. Signatures of the owners or authorized representatives.

B. Site Plan

A complete site plan**, showing the proposed site (site plans with alternative sites or building envelopes are not sufficient)** shall be submitted for all new development, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak.

The site plan shall be prepared at a scale of 1" = 200' or a scale providing greater detail which clearly indicates the following information:

ALL DEVELOPMENT

1. Boundaries, dimensions, and size of the subject parcel.

2. Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel.

3. Access:— Indicate all existing and proposed points of ingress and egress and whether they are public or private.

4. Location, dimensions and method of improvement of all roads, access drives, trails, and parking areas with individual parking spaces and internal circulation patterns.

Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve (12) percent with turnouts provided at a minimum of every five hundred (500) feet.

5. Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, telephone and power poles and lines.— **Utility** ~~Telephone and power~~ supply systems shall be underground whenever practical.

6. The location of the pond, stream, tank or sump with storage of not less than 1,000 gallons if the well or water system is not capable of delivering twenty (20) gallons per minute.

7. The location of a standpipe (water spigot) a minimum of fifty (50) feet from each flammable structure if the development includes a plumbed water system.

8. Location, size and dimension of all yards and setbacks and all spaces between buildings.

9. Lighting:— General nature and location (not including interior building lighting).

10. Outdoor storage and activities, if permitted in the zone, showing type, location and height of screening devices, including trash and recycling storage locations and their pick up locations.

11. Location and depth of all proposed grading, filling, ditching and excavating unless a grading plan is required by F below.

12. North arrow and map scale.

13. Significant terrain features and landforms.

14. Bodies of water and watercourses.

NON RESIDENTIAL DEVELOPMENT

15. Signs:– Locations, size, height, material and method of illumination.

16. Loading:– Location, dimensions, internal circulation and access from public right-of-way.

17. General locations for all temporary facilities associated with a commercial event.

C. Material Samples - As part of a complete application, material samples for all exterior surfaces of proposed structures shall be submitted.– Material samples may be paint samples, stain samples, a piece of the physical construction material, brochures, manufactures specifications, or other material or information that is adequate to represent the final exterior appearance.– Samples shall be required for all exterior parts of proposed structure(s) including but not limited to:

1. Main

2. Trim or Secondary

3. Roof.– The roof shall be constructed of fire resistant material.

4. Window frames, sills, and sashes

5. Doors, including garage doors, and

6. Hooding for exterior lighting

D. Landscaping Plan - A detailed plan for landscaping which shall clearly illustrate:
(The landscaping plan may be included on the site plan if there is adequate detail to show all of the required information.)

1. The location, height and species of existing trees and vegetation.– Indicate which are proposed to be removed.— The landscaping plan shall include detailed information to the level of individual trees and groupings of vegetation for the proposed development area and all topographically visible corridors between the proposed development area and Key Viewing Areas.– The landscaping information for the remainder of the property may be generalized.

2. The location, height and species of individually proposed trees and vegetation groupings.

3. Indicate the fifty (50) foot fuel break surrounding each new building and how this area will meet hazardous fuels reduction standards.

Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced with greater than fifteen (15) feet between the crowns and pruned to remove dead and low [less than eight (8) feet] branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

4. The location of automatic sprinkler systems or other irrigation provisions to ensure survival of landscape planting for screening purposes.

E. Elevation Drawing - Elevation drawings shall show the appearance of all sides of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as ~~seen~~**visible** from a horizontal view. Elevation drawings shall be drawn to scale.

F. Grading Plan

1. All applications for structural development, except for trails in the SMA, involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan.

2. All proposed structural development involving more than 200 cubic yards of grading on sites visible from Key Viewing Areas shall include a grading plan**.**

3. All grading plans shall include the following:

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

(1) Existing and proposed final grades.~~Natural and finished grades.~~

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

(3) Estimated dimensions of graded areas.

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

(1) Its purpose.

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

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

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

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

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

SECTION 14.100 – Provisions For All New Development (GMA & SMA)

A. All new development, except uses allowed through the expedited review process, shall be reviewed under the applicable sections of Key Viewing Areas, Scenic Travel Corridors, Landscape Settings, Natural Resources, Cultural Resources, and Recreation Resources.

SITING

B. New ~~buildings and roads~~ **development** shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

DESIGN/COLOR

C. New buildings **and expansions of existing development** shall be compatible with the general scale ~~(height, dimensions and overall mass)~~ of existing nearby development. ~~Expansion of existing development shall comply with this guideline to the maximum extent practicable.~~**New buildings that are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:**

1. **Application of the landscape setting design guidelines, if applicable.**

2. **A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.**

~~1.~~**3. Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:**

   a. **All finished above ground square footage;**

   b. **Total area of covered decks and porches;**

   c. **Attached garages**

   d. **Daylight basements**

   e. **Breezeways, if the breezeway shares a wall with an adjacent building**

   ~~a.~~**f. Dimensions, based on information from the application or on Assessor's records**

~~2.~~**4. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.**

D. Unless expressly exempted by other provisions, colors of all exterior surfaces of structures on sites not visible from Key Viewing Areas shall be **dark** ~~earth-tones~~**earth tones** found at the specific site or in the surrounding landscape.— The specific colors **approved by the reviewing agency** ~~or list of acceptable colors~~ shall be included as a condition of approval.— ~~The Scenic Resources Implementation Handbook will include a recommended palette of colors.~~

E. Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building.— Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape.— The specific colors **approved by the reviewing agency** ~~or list of acceptable colors~~ shall be included as a condition of approval.– ~~The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.~~

F. Outdoor lighting shall be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting.— Shielding and hooding materials shall be composed of non-reflective opaque materials.– There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic.

LANDSCAPING

G. All ground disturbance as a result of site development shall be revegetated no later than the next planting season (Oct-April) with native species.— The property owners and their successors in interest shall be responsible for survival of planted vegetation, and replacement of such vegetation that does not survive.

H. Except as is necessary for site development or fire safety purposes, the existing tree cover screening the development area on the subject parcel from Key Viewing Areas and trees that provide a back drop on the subject parcel which help the development area achieve visual subordinance, shall be retained.— Additionally, unless allowed to be removed as part of the review use, all trees and vegetation within buffer zones for wetlands, streams, lakes, ponds and riparian areas shall be retained in their natural condition.– Any of these trees or other trees required to be planted as a condition of approval that die for any reason shall be replaced by the current property owner or successors in interest no later than the next planting season (Oct-April) after their death with trees of the same species or from the list in the landscape setting for the property.

To ensure survival, new trees and replacement trees shall meet the following requirements

1. All trees shall be at least 4 feet tall at planting, well branched, and formed.

2. Each tree shall be braced with 3 guy wires and protected from livestock and wildlife.– The guy wires need to be removed after two winters.

3. The trees must be irrigated until they are well established.

4. Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.

SECTION 14.200 Key Viewing Areas

The following is required for all development that occurs on parcels/lots topographically visible from Key Viewing Areas.

A. Each development and land use shall be visually subordinate to its setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as **visible** ~~seen~~ from Key Viewing Areas. ~~The extent and type of conditions applied to a proposed development to achieve visual subordinance shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.~~

1. **A determination of the potential visual impact of a new development** ~~Decisions~~ shall include written findings addressing the **following** factors ~~:influencing potential visual impact including but not limited to:~~

a. The number of Key Viewing Areas it is visible from;

b. The distance from the building site to the Key Viewing Areas it is visible from;

c. The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads and the Columbia River);

d. The difference in elevation between the building site and Key Viewing Areas;

e. The nature and extent of topographic and vegetative back screening behind the building site as ~~seen~~**visible** from Key Viewing Areas;

f. The amount of area of the building site exposed to Key Viewing Areas; and

g The degree of existing vegetation providing screening.

2. Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as ~~seen~~**visible** from key viewing areas, including but not limited to:

a. **screening by topography**

b. siting (location of development on the subject property, building orientation, and other elements);

c. **retention of existing vegetation on the applicant's property**

d. design (**form, line,** color, **texture,** reflectivity, size, shape, height, architectural and design details and other elements); and

e~~d~~. new landscaping **on the applicant's property**~~.~~

f. **new berms or other recontouring on the applicant's property, where consistent with other applicable provisions.**

SITING

B. New development shall be sited to achieve visual subordinance from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)

C. New development shall be sited to achieve visual subordinance utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.

D. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

E. The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as **visible** ~~seen~~ from Key Viewing Areas. ~~A variance in the General Management Area may be granted according to Chapter 6 if application of the guidelines would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height and site to comply with the criteria have been made.~~

~~**F.** An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:~~

~~**1.** The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and~~

~~**2.** There is no practicable alternative means of altering the building without increasing the protrusion.~~

~~**G.** Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized according to Chapter 6 of this Ordinance. In the SMA the~~

~~setbacks described above shall be 200 feet.~~

F

~~H~~**.** New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent.~~—~~ Variances to this guideline may be authorized according to Chapter 6 of this Ordinance if its application would render a property unbuildable.~~—~~ In determining the slope, the average percent slope of the proposed building ~~site~~ **footprint** shall be utilized.

Design/Color

~~I~~**G.** Unless expressly exempted by other provisions in this chapter, colors of all exterior surfaces of structures visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors ~~or list of acceptable colors~~ **approved by the reviewing agency** shall be included as a condition of approval. ~~The Scenic Resources Implementation Handbook will include a recommended palette of colors.~~

~~J.~~ **H.** The exterior of buildings in the GMA and structures in the SMA on lands ~~seen~~ **visible** from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity~~, unless the structure would be fully screened from all key viewing areas by existing topographic features~~. **Continuous surfaces of glass shall be limited to ensure visual subordinance.**~~—~~ The Scenic Resources Implementation Handbook~~ will~~ include**s** a list of recommended exterior materials **and screening methods**~~. These recommended materials and other materials may be deemed consistent with this criterion, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from Key Viewing Areas shall be limited to ensure visual subordinance. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.~~

Landscaping

~~K~~**I.** The following criteria shall apply to new landscaping used to screen development from Key Viewing Areas:

1. New landscaping (including new earth berms) shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development visually subordinate in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.~~—~~ Alternate sites shall be considered prior to using new landscaping to achieve visual subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.

2. If new landscaping is required to make a proposed development visually subordinate in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this criterion shall be sized to provide sufficient screening to make the development visually subordinate within five years or

less from the commencement of construction. **If after five years the vegetation has not achieved a size sufficient to screen the development, additional screening may be required by the local government to make the development visually subordinate.**

3. Unless as specified otherwise by provisions in this chapter, landscaping shall be installed as soon as practicable, and prior to project completion.

4. Conditions regarding new landscaping or retention of existing vegetation for new developments shall meet both scenic guidelines and the fuel break guidelines listed in the fire protection standards for each zone.

MISCELLANEOUS

~~I~~**J.** Determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments.

~~M~~**K.** New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable.~~—~~ Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

~~N~~**L.** New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

~~O~~**M.** New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

1. The facility is necessary for public service;

2. The break in the skyline is ~~seen~~ **-visible** only in the background; and

3. The break in the skyline is the minimum necessary to provide the service.

~~P~~**N.** Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

1. The facility is necessary for public service;

2. The break in the skyline is the minimum necessary to provide the service.

~~Q~~**O.**In addition to all applicable criteria above, all Mineral and Aggregate related uses on lands visible from Key Viewing Areas shall meet all applicable criteria in Chapter 10.

~~R~~**P**. In addition to the GMA standards, the following will be required in the SMA.

1. New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from Key Viewing Areas.

2. Sites approved for development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

3. In all landscape settings, scenic standards in Table below shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	Not Visually Evident
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Residential	Residential	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

4. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this criterion is not feasible considering the function of the structure.

5. Seasonal lighting displays **may**~~shall~~ be permitted on a temporary basis, not to exceed 3 months.

6. Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.— When screening of development is needed to

meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

7. New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt. Findings addressing this guideline shall include, but are not limited to:

a. application of the landscape setting design guidelines, if applicable

b. a defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

c. individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

(1) All finished above ground square footage;

(2) Total area of covered decks and porches;

(3) Attached garages

(4) Daylight basements

(5) Breezeways, if the breezeway shares a wall with an adjacent building

(6) Dimensions, based on information from the application or on Assessor's records

8. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

~~S~~**Q.** The following are not required to meet scenic standards:

1. Uses and activities in Developed Settings as specified in 14.400(J), Landscape Settings.

2. Rehabilitation of or modification of significant historic structures, carried out in compliance with the National Register of Historic Places guidelines (SMA)/National Parks Service regulations for such structures (GMA). To be eligible for such exemption, the structure must be included in or eligible for the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

3. Shoreline developments, uses and activities on the mainstream of the Columbia River that are adjoining Urban Areas.

SECTION 14.300 – Scenic Travel Corridors (GMA & SMA)

A. Several state and federal highways, renowned as highly scenic travel and recreation corridors, traverse the National Scenic Area. These travelways parallel the Columbia River and several of its major tributaries. Among these well-known roads are the Historic Columbia River Highway and Interstate 84 (recently designated as one of the most scenic highways in America by Rand McNally).

The "Scenic Travel Corridors" program in the Management Plan acknowledges the importance of these travelways to the National Scenic Area. It provides measures to protect and enhance the scenic qualities of the landscapes within the foregrounds of these roads. Many of the standards included in this section require implementing actions from the state agencies charged with managing these scenic byways, in coordination with local governments.

B. The Historic Columbia River Highway and Interstate 84 are designated as Scenic Travel Corridors. Development along these corridors shall be subject to the following standards:

1. For the purposes of implementing this section, the **immediate** foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Scenic Travel Corridor roadway.

2. All new buildings and alterations to existing buildings shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Chapter 6. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

3. Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway shall comply with standard 2 of this subsection to the maximum extent practicable.

4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

a. An evaluation of potential visual impacts of the proposed project as ~~seen~~**visible** from any Key Viewing Area;

b. An inventory of any rare plants, special wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable Management Plan guidelines to protect the resources.

5. When evaluating which locations to consider undergrounding of signal wires or ~~powerlines~~**power lines**, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory*, prepared in ~~April,~~**April** 1990.

6. New **exploration, development (extraction or excavation), and production of mineral resources** ~~production and/or development of mineral resources~~ proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. An interim time period to achieve compliance with full screening requirements shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed one year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

7. Expansion of existing quarries may be allowed pursuant to Section 10.300(B)(2). Compliance with visual subordinance requirements shall be achieved within timeframes specified in Section 10.300(B)(3). **(GMA Only)**

C. In the SMA the following additional criteria shall apply to development within the immediate foregrounds of Key Viewing Areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area.

1. The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

2. Findings must evaluate the following:

   a. The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous section,

   b. Reduction in project size;

   c. Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;

   d. Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

3. Form, line, color, texture, and design of a proposed development shall be evaluated to ensure

that the development blends with its setting as ~~seen~~**visible** from the foreground of key viewing areas:

a. Form and Line-Design of the development shall minimize changes to the form of the natural landscape.— Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting.— Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.

b. Color-Color shall be found in the project's surrounding landscape setting.— Colors shall be chosen and repeated as needed to provide unity to the whole design.

c. Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures.— Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.

d. Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing.— Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment.— Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

4. Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

SECTION 14.400 – Landscape Settings (GMA & SMA)

Landscape settings are the combination of land uses, landforms and vegetation patterns which distinguish an area in appearance and character from other portions of the National Scenic Area.

Landscape Setting goals, policies and guidelines, as defined and identified in the Management Plan, represent a long-term vision of scenic protection as expressed in the landscape. The following design standards are provided to ensure that new developments are compatible with and maintain the character of their settings. These standards are not intended to limit imagination, variety or creative design solutions.

The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

A. Pastoral Landscape Setting

GMA Only

1. Accessory structures, outbuildings and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

2. In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordinance for new development and expansion of existing development:

a. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

b. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. ~~Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, bigleaf maple, and black locust (primarily in the eastern Gorge).~~ **Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.**

c. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

SMA Only

3. Pastoral areas shall retain the overall appearance of an agricultural landscape. The use of plant species in rows as commonly found in the landscape setting is encouraged. The use of plant species ~~common~~ **native** to the landscape setting shall be encouraged. **Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.**

B. Coniferous Woodland Landscape Setting

GMA Only

1. Structure height shall remain below the forest canopy level.

2. In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordinance for new development and expansion of existing development:

   a. At least half of any trees planted for screening purposes shall be species native to the setting. ~~Such species include: Douglas fir, grand fir, western red cedar, western hemlock, bigleaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).~~ **Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.**

   b. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

SMA Only

3. Woodlands areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland landscape.

   a. Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics. **Examples of native species are identified in the Scenic Implementation Handbook.**

   b. Buildings shall be encouraged to have a vertical overall appearance.

C. Oak-Pine Woodland Landscape Setting

GMA Only

1. Structure height shall remain below the tree canopy level **of the dominant vegetation types** ~~in wooded portions~~ of this setting.

2. In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordinance for new development and expansion of existing development.

   a. At least half of any tree species planted for screening purposes shall be species native to the setting. ~~Such species include: Oregon white oak, ponderosa pine, Douglas fir.~~**Examples of the native species are identified in the Scenic Implementation Handbook as appropriate to**

the area.

b. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

c. Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

For treeless portions or portions with scattered tree cover:

d. Structures shall be sited on portions of the property which provide maximum screening from Key Viewing Areas utilizing existing topographic features.

e. Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

f. Accessory structures, outbuildings and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

SMA Only

3. Woodland areas should retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Oak/Pine Woodland landscape.

a. Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics. **Examples of native species are identified in the Scenic Implementation Handbook.**

b. Buildings shall be encouraged to have horizontal overall appearance.

D. Grassland Landscape Setting

GMA Only

1. Accessory structures, outbuildings and access ways shall be clustered together as much as possible. Exceptions to this criterion, where necessary for farming operations, are permitted.

2. In portions of this setting visible from Key Viewing Areas, the following standard shall be employed to achieve visual subordinance standards for new development and expansion of existing development:

a. Structures shall be sited on portions of the property which provide maximum screening from Key Viewing Areas utilizing existing topographic features.

b. Lower structures which emphasize horizontal lines and blend with this sweeping landscape shall be encouraged rather than very tall structures.

c. Planting of trees for screening shall not be extensive, in character with the openness of this setting.~~—~~ Where utilized, screening vegetation shall either tie in with near-by riparian vegetation in seasonal drainages or emulate windrows.~~—~~ At least half of any trees planted for screening purposes shall be species native to the setting**.** ~~or commonly found in the area. Such species include: Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.~~ **Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.**

E.~~–~~ Rural Residential Landscape Setting

GMA Only

1. In portions of this setting visible from Key Viewing Areas~~, and not exempt from visual subordinance standards (see J below)~~**(except those areas described in the "Developed Settings and Visual Subordinance Policies" of the Management Plan or in J below)**~~,~~ the following standards shall be employed to achieve visual subordinance for new development:

a. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. **Examples of native species are identified in the Scenic Implementation Handbook.**

b. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

F. Rural Residential/Pastoral, Coniferous Woodland or Oak-Pine Woodland Landscape Setting

GMA Only

1. New development in this setting shall meet the design standards described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland, or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

2. In the event of a possible conflict between the two sets of standards, the standards for the more rural setting (Coniferous Woodland, Pastoral, or Oak-Pine Woodland) shall apply, unless it can

be demonstrated that application of such standards would not be practicable.

G. Residential Landscape Setting

GMA Only

1. In portions of this setting visible from Key Viewing Areas ~~*and not exempt from visual subordinance* standards~~ **(except those areas described in the "Developed Settings and Visual Subordinance Policies" of the Management Plan or in J below)**~~see J below~~), the following standards shall be employed to achieve visual subordinance for new development and expansion of existing development:

a. Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.

b. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. **Examples of native species are identified in the Scenic Implementation Handbook.**

c. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

SMA Only

2. The Residential setting is characterized by concentrations of dwellings.

a. Use of plant species native to the landscape setting shall be encouraged.~~–~~ Where non-native plants are used, they shall have native appearing characteristics. **Examples of native species are identified in the Scenic Implementation Handbook.**

b. At Rowena Dell, new buildings shall have a rustic appearance and use natural materials.

H. River Bottomlands Landscape Setting

GMA Only

1. In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordinance for new development and expansion of existing development:

a. At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting.~~—~~ Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting.~~— Such native species~~

~~include: black cottonwood, bigleaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.~~ **Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.**

b. At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

SMA Only

2. River bottomlands shall retain the overall visual character of a floodplain and associated islands:

a. Buildings shall have an overall horizontal appearance in areas with little tree cover.

b. Use of plant species native to the landscape setting shall be encouraged.– Where non-native plants are used, they shall have native-appearing characteristics. **Examples of native species are identified in the Scenic Implementation Handbook.**

I. Gorge Walls, Canyonlands and Wildlands Landscape Setting

GMA Only

1. New development and expansion of existing development shall be screened so as to not be ~~seen~~**visible** from Key Viewing Areas to the maximum extent practicable.

2. All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

3. All buildings shall be limited in height to 1 1/2 stories.

4.– The exteriors of structures shall be non-reflective.

5. Signage shall be limited to natural materials such as wood or stone, and natural colors or earth-tone colors **found in the surrounding landscape**, unless public safety concerns or federal or state highway standards require otherwise.

SMA Only

6. New developments and land uses shall retain the overall visual character of the natural appearing landscape:

a. Structures, including signs, shall have a rustic appearance, use non-reflective materials, have low contrast with the surrounding landscape, and be of Cascadian architectural style.

b. Temporary roads must be promptly closed and revegetated.

c. New utilities must be below ground surface, where feasible.

d. Use of plant species non-native to the Columbia River Gorge shall not be allowed.

7. Signage shall be limited to natural materials such as wood or stone, and natural colors or ~~earth-tone~~**earth tone** colors, unless public safety concerns or federal or state highway standards require otherwise.

J. Special Settings

GMA Only

1. Two landscape settings in Wasco County are considered developed settings: Rural Residential and Residential. Of all General Management Area lands in these two settings, two particular areas which are not visually sensitive have been identified. New development in these settings shall be compatible with the setting, but not necessarily visually subordinate. New developments in these settings are exempt from the color and siting guidelines in the Key Viewing Areas section of this chapter. These areas are:

a. Murray's Addition subdivision, The Dalles (Residential)

b. Two small areas south of The Dalles in Sections 9 and 10, Township 1N, Range 13E (Residential).

2. The Gorge Discovery Center site at Crates Point is designated River Bottom lands. The scope of development planned for the site may not make visual subordination possible. The Discovery Center site shall be designed and developed to be visually subordinate from Key Viewing Areas and compatible with its landscape setting to the maximum extent possible.

K. The following guidelines shall apply to new landscaping used to screen development from key viewing areas: **(SMA Only)**

1. New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

2. If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

3. Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

4. The Building in the Scenic Area Handbook includes recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

Section 14.500~~.~~ Cultural Resources (GMA Only)

A. Purpose:

1. Protect and enhance cultural resources.

2. Ensure that proposed development and uses do not have an adverse effect on significant cultural resources.

B. Applicability of the Cultural Resource Reconnaissance and Historic Survey Requirements

1. The reconnaissance survey standards of C, Cultural Resource Reconnaissance and Historic Survey, apply until a cultural resource survey of the General Management Areas is complete.

a. Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling

b. A reconnaissance survey shall be required for all proposed uses, except:

(1) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(2) Proposed uses that would not disturb the ground, including:

(a) ~~land~~**Land** divisions and lot-line adjustments/replats;

(b) ~~storage~~**Storage** sheds that do not require a foundation;

~~**(c)** low-intensity recreation uses, such as fishing, hunting, and hiking;~~

(c~~d~~)~~installation~~**Installation** of surface chemical toilets;

(d~~e~~) ~~hand~~**Hand** treatment of brush within established rights-of-way; and

(e~~f~~) ~~new~~**New** uses of existing structures.

(3) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including:

(a) ~~repair~~**Repair** and maintenance of lawfully constructed and serviceable structures;

(b) ~~home~~**Home** gardens;

(c) **L**~~l~~ive-stock grazing;

(d) ~~cultivation~~**Cultivation** that employs minimum tillage techniques, such as replanting pastures using a grassland drill;

(e) ~~construction~~**Construction** of fences;

(f) ~~new~~**New** utility poles that are installed using an auger, post-hole digger, or similar implement; and

(g) ~~placement~~**Placement** of **manufactured** ~~mobile~~ homes where septic systems and underground facilities are not involved.

The Gorge Commission will review all land use applications and determine if proposed uses would have a minor ground disturbance.

(4) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed depth and extent of existing ground disturbance.

(a) To qualify for this exception, a project applicant must demonstrate that land disturbing activities occurred in the project area.

(b) Land disturbing activities include grading and cultivation.

(5) Proposed uses that would occur on sites that have been adequately surveyed in the past.

(a) ~~The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception.~~

~~(b)~~ Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing.

(b~~c~~**)** The nature and extent of any cultural resources in the project area must be adequately documented.

(6) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

(a) ~~residential~~**Residential** development that involves two or more new dwellings for the same project applicant;

(b) ~~recreation~~**Recreation** facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and

environmental education facilities;

(c) ~~public~~**Public** transportation facilities that are outside improved rights-of-way;

(d) ~~electric~~**Electric** facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) ~~communications~~**Communications**, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources will be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the U.S. Forest Service, public agencies, and private archaeologists.

c. A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource **and all proposed uses within 100 feet of a high probability area**, including those listed above in (a)(1) through (6).~~ The location of known cultural resources are shown in the cultural resource inventory.~~**Forest Service maintains a map of known cultural resources and a probability map.~~ Both maps are confidential as required by the National Scenic Area Act, other federal law, and Oregon and Washington law.**

d. The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgement, a reconnaissance survey may be necessary to ensure protection of cultural resources.

2. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.

3. The Gorge Commission will conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area.

a. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also will identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone.

b. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

c. **Project applicants** ~~The Gorge Commission will conduct and pay~~**are responsible for paying** for evaluations of significance and mitigation plans for cultural resources that are discovered during ~~construction,~~**construction;** subsection G, for small and large-scale uses in the General Management Area.

d. For this Ordinance, large-scale uses include development involving:

(1) ~~two~~**Two** or more new residential dwellings;

(2) ~~recreation~~**Recreation** facilities;

(3) ~~commercial~~**Commercial** and industrial development;

(4) ~~public~~**Public** transportation facilities;

(5) ~~electric~~**Electric** facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater;

(6) ~~communications~~**Communications**, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances; and

(7) ~~disposal~~**Disposal** sites

4. The primary responsibility and cost of preparing an Evaluation of Significance, D; Assessment of Affect, E; or Mitigation Plan, F, shall be borne by the project applicant.

a. If the applicant has no practicable alternative, according to (7) below, Practicable Alternative Test, allowing them to avoid an affected cultural resource, or is seeking to make a change or addition to a historic resource, the Forest Service has agreed to provide services to aid in the preparation of the Evaluation of Significance, Assessment of Effect, or Mitigation Plan to the greatest extent possible.

b. The responsibility for and cost of any development necessary to protect or mitigate effects on the cultural resource shall be borne by the project applicant.

5. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

1. If cultural resources may be affected by a proposed use, an evaluation shall be performed to determine if they are significant. Cultural resources are significant if one of the following criteria is satisfied:

A. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places.

The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

Generally, cultural resources must meet one or more of the following criteria. ~~—~~ **If a cultural resources meets one or more of the criteria, then it shall be assessed for** ~~Cultural resources are eligible for the National Register of Historic Places if they possess~~ integrity of location, design, setting, materials, workmanship, feeling, and association. **If a cultural resource has the requisite integrity, then it would be eligible for the National Register of Historic Places.** ~~—~~ In addition, they must meet one or more of the following criteria:

(1) Have an association with events that have made a significant contribution to the broad patterns of the history of this region.

(2) Have an association with the lives of persons significant in the past.

(3) Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction.

(4) Yield, or may be likely to yield, information important in **precontact** ~~prehistory~~ or histor**ical information.** ~~y.~~

B. The cultural resources are determined to be culturally significant by an ~~Indian tribal~~**Tribal** government, based on criteria developed by that ~~Indian tribal~~**Tribal** government**.** ~~and filed with the Gorge Commission.~~

2. If a project applicant's and ~~Indian tribal~~**Tribal** government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and ~~Indian tribal~~**Tribal** government's ~~substantiated~~ concerns. The CAC will submit a recommendation to the local government as to whether affected cultural resources are significant.

3. ~~–~~ If cultural resources are determined to be significant, there shall be a professional assessment of the effects of the proposed use. The assessment shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5).

4. ~~–~~ A mitigation plan shall be prepared if a proposed use would have an adverse effect on significant cultural resources. The criteria published in “Resolution of Adverse Effects” (36 CFR 800.6) shall be used to determine if a proposed use would have an adverse effect.

5. Mitigation measures shall ensure that a proposed use would have no adverse effect on significant cultural resources. Uses that would adversely affect significant cultural resources shall be prohibited.

6. Avoidance is the preferred method of cultural resource protection. Other mitigation

measures to reduce the effect of a proposed use on cultural resources shall be used only if avoidance is not practicable.

7. The state historic preservation officer (SHPO) shall have an opportunity to review all cultural resource surveys, evaluations, assessments, and mitigation plans. Based on comments submitted by the SHPO and interested persons, the local government shall make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, and guidelines.

8. The SHPO may delegate all or a portion of ~~his/her~~**their** responsibilities under these goals, objectives, policies, and guidelines to a local government that establishes a Certified Local Government, as provided in the National Historic Preservation Act of 1966.

9. If cultural resources are discovered during construction activities, all construction shall cease until the resources are inventoried and evaluated **in accordance with applicable law and any inadvertent discovery plan**. If the resources are determined to be significant, a mitigation plan shall be prepared.

10. If human remains are discovered during a cultural resource survey or during construction activities, all activities shall cease and the proper officials and governments shall be notified. Human remains shall be treated in accordance **with the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) as amended, and other**~~with~~ state laws **that do not conflict with NAGPRA**. A mitigation plan shall be prepared if the remains are reinterred or preserved in their original position.

11. Provide incentives to protect and enhance historically significant buildings by allowing uses of such buildings that are compatible with their historic character and that provide public appreciation and enjoyment of them as cultural resources.

6. Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) a reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

7. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

a. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on cultural resources;

b. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on cultural resources; and

c. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.

C. Cultural Resource Reconnaissance and Historic Surveys

1. Gorge Commission/Tribal Government Notice

a. In addition to other public notice requirements that may exist, the County shall notify the ~~Indian tribal~~**Tribal** governments when:

(1) ~~a~~**A** reconnaissance survey is required; or

(2) ~~cultural~~**Cultural** resources that are ~~prehistoric~~**precontact** or otherwise associated with Native Americans exist in the project area.

b. Notices sent to ~~Indian tribal~~**Tribal** governments shall include a site plan as stipulated in Section 14.040. **At a minimum, notice shall be sent via email where addresses are available. If a tribal government requests notice in another form, local governments shall comply with that request.**

c. ~~Indian tribal~~**Tribal** governments shall have **30**~~20~~ calendar days from the date a notice is mailed to submit written comments to the County Planning Office.

(1) **The tribal government may choose to include** ~~Written~~ comments **that** ~~should~~ describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge about them.

(2) The County shall send a copy of all comments to the Gorge Commission.

2. Consultation and Ethnographic Research

a. When written comments are submitted to the County Planning Office in a timely manner, the project applicant shall offer to meet with the interested persons within 10 calendar days.

(1) The 10 day consultation period may be extended upon agreement between the project applicant and the interested persons.

(2) Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. **This consultation meeting may include oral history identification through tribal sources.** Recommendations to avoid potential conflicts should be discussed.

(3) All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report**, except that sensitive tribal information may be redacted by an appropriate tribal representative**.– In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

b. A project applicant who is proposing a large-scale use or development shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research.

(1) All requests must include a description of the cultural resources that may be affected by the proposed use and identify of knowledgeable informants.

(2) Ethnographic research shall be conducted by qualified specialists.— **R**~~Tape r~~ecordings, maps, photographs, and minutes shall be used when appropriate.

(3) All written comments, consultation meeting minutes and ethnographic research shall be incorporated into the reconnaissance or historic survey report.— In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

3. Notice of Survey Results

a. The County shall submit a copy of all cultural resource survey reports to the State Historic Preservation Office and the ~~Indian tribal~~**Tribal** governments.

(1) Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(2) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the County Planning Office.

(3) The County shall record and address all written comments in its development review order.

4. Conclusion of the Cultural Resource Protection Process

a. The County Planning Office will make a final decision on whether the proposed use would be

consistent with the cultural resource goals, policies, guidelines, and standards.

b. If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.

c. The cultural resource protection process may conclude when one of the following conditions exist:

(1) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within **30**~~20~~ calendar days of the date that a notice was mailed.

(2) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within **30**~~20~~ calendar days of the date that a notice was mailed.

(3) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area.

(a) To meet this standard, a reasonable buffer zone must be established around the affected resources or properties;

(b) All ground disturbing activities shall be prohibited within the buffer zone.

(c) Buffer zones must preserve the integrity and context of cultural resources.~~—~~ They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant.

(d) A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

(e) An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource.~~—~~ In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(4) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures**.** ~~because~~ **:To demonstrate that the proposed use would not have an effect on historic buildings or structures, the historic survey must satisfy one of the following guidelines:**

(a) The State Historic Preservation Office concludes that the historic buildings or structures are clearly not significant, as determined using the criteria in the "National Register Criteria for Evaluation" (36 CFR Part 60.4); or

(b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in ~~*The Secretary of the Interior'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).~~***The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (US Department of Interior 2017 or the most recent revision).**

(5) The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these standards.

(a) If it does not, architectural and building plans, photographs, and archival research may be required; and

(b) The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

(6) The historic survey and report must demonstrate that these standards have been clearly and absolutely satisfied. If the State Historic Preservation Office or the County Planning Office question whether these standards have been satisfied, the project applicant shall conduct an evaluation of significance, according to D below, Evaluation of Significance.

D. Evaluation of Significance

1. Evaluation Criteria

Cultural resources are significant if one of the following criteria is satisfied.

a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places.

The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4). Cultural resources are eligible for the National Register of Historic Places if they possess integrity of location, design, setting, materials, workmanship, feeling, and association. In addition, they must meet one or more of the following criteria.

(1) Have an association with events that have made a significant contribution to the broad patterns of the history of this region.

(2) Have an association with the lives of persons significant in the past.

(3) Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic components may lack individual distinction.

(4) Yield, or may be likely to yield, information important in prehistory or history.

b. The cultural resources are determined to be culturally significant by ~~an~~**a** ~~Indian tribal~~**Tribal** government, based on criteria developed by that ~~Indian tribal~~**Tribal** government and filed with the Gorge Commission.

2. Evaluation Process and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following standards:

Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior 2002 **or most recent revision**) and *Guidelines for the Evaluation and Documentation of Traditional Cultural Properties* (Parker and King 1998 **or most recent revision**). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

a. To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

b. The project applicant shall contact ~~Indian tribal~~**Tribal** governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

c. The evaluation of significance shall follow the principles, guidelines, and report format recommended by the State Historic Preservation Office. It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

d. All documentation used to support the evaluation of significance shall be cited.

(1) Evidence of consultation with ~~Indian tribal~~**Tribal** governments and other interested persons shall be presented.

(2) All comments, recommendations, and correspondence from ~~Indian tribal~~**Tribal** governments and interested persons shall be appended to the evaluation of

significance.

3. Notice of Evaluation Results

If the evaluation of significance demonstrates that the cultural resources are not significant, the County shall submit a copy of the evaluation of significance to the State Historic Preservation Office and the ~~Indian tribal~~**Tribal** governments **for concurrence.**~~.~~

a. The State Historic Preservation Office, ~~Indian tribal~~**Tribal** governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the County Planning Office.

b. The County Planning Office shall record and address all written comments in its development review order.

4. Cultural Resources are Culturally Significant

If ~~an~~**a** ~~Indian tribal~~**Tribal** government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee shall make an independent review of the applicant's evaluation and the ~~Indian tribal~~**Tribal** government's substantiated concerns.

a. The Cultural Advisory Committee will formulate a recommendation regarding the significance of the cultural resources.

b. The ~~Indian tribal~~**Tribal** government must substantiate its concerns in a written report.

(1) The report must be submitted to the County Planning Office, Cultural Advisory Committee, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed.

(2) The Cultural Advisory Committee must submit its recommendation to the County Planning Office within 30 calendar days from the date the evaluation of significance is mailed.

5. Conclusion of the Cultural Resource Protection Process

The County will make a final decision on whether the affected resources are significant.

a. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Office or Cultural Advisory Committee, the County must justify how it reached an opposing conclusion.

b. The cultural resource protection process may conclude if the affected cultural resources are not significant.

c. If the project applicant or the County determines that the cultural resources are significant, the effects of the proposed use shall be assessed according to E below, Assessment of Effect.

E. Assessment of Effect

1. Evaluation Criteria and Information Needs

If a use could affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following standards:

a. The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR Part 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR Part 800.11.

(1) Proposed uses have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR Part 800.5].

(2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR Part 800.5]. Adverse effects on cultural resources include, but are not limited to:

(a) Physical destruction, damage, or alteration of all or part of the cultural resource;

(b) Isolation of the cultural resource from its setting or alteration of the character of the ~~resource's~~**resources** setting when that character contributes to the resource's qualification as being significant;

(c) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting;

(d) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5; and

(e) Transfer, lease, or sale of the cultural resource.

b. The assessment of effect shall be prepared in consultation with ~~Indian tribal~~**Tribal** governments and interested persons, as appropriate. The concerns and recommendations voiced by ~~Indian tribal~~**Tribal** governments and interested persons shall be recorded and addressed in the assessment.

c. The effects of a proposed use that would otherwise be determined to be adverse may be considered to not be adverse in the following instances:

(1) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines;

(2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with ~~*The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and~~ *The Secretary of the Interior's Standards for* ***the Treatment of*** *Historic* ***Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*** ~~*Preservation Projects*~~ (U.S. Department of the Interior ~~1983)~~**2017 or most recent revision)**; or

(3) The proposed use is limited to the transfer, lease, or sale of **non-federal lands that contain** cultural resources, and adequate restrictions or conditions are included to ensure preservation of the significant features of the resources.

2. Notice of Assessment Results

If the assessment of effect concludes ~~that~~**that,** the proposed use would have no effect or no adverse effect on significant cultural resources, the County shall submit a copy of the assessment to the State Historic Preservation Office and the ~~Indian tribal~~**Tribal** governments.

a. The State Historic Preservation Office, ~~Indian tribal~~**Tribal** governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the County Planning Office.

b. The County shall record and address all written comments in its development review order.

3. Conclusion of the Cultural Resource Protection Process

The County will make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect.

a. If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.

b. The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

c. A mitigation plan shall be prepared if a project applicant or the County determines that the proposed use would have an adverse effect on significant cultural resources according to F below, Mitigation Plans.

F. Mitigation Plans

1. Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans must reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

a. Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including ~~Indian tribal~~**Tribal** governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Office.

b. Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

c. Alternative mitigation measures shall be used only if avoidance is not practicable.

(1) Alternative measures **may** include, but are not limited to, **requiring a monitor during construction,** burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation.

(2) If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism must be developed and recorded in county deeds and records.

d. Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR Part 800.11, including, but not limited to:

(1) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use;

(2) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection;

(3) Documentation of consultation with the State Historic Preservation Office regarding any alternatives or mitigation measures;

(4) A description of the project applicant's efforts to obtain and consider the views of ~~Indian~~

~~tribal~~**Tribal** governments, interested persons, and local governments; and

(5) Copies of any written recommendations submitted to the County Planning Office or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

2. Notice of Mitigation Plan Results

If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the local government shall submit a copy of the mitigation plan to the State Historic Preservation Office and the ~~Indian tribal~~**Tribal** governments.

a. The State Historic Preservation Office, ~~Indian tribal~~**Tribal** governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the County Planning Office.

b. The local government shall record and address all written comments in its development review order.

3. Conclusion of the Cultural Resource Protection Process

The County will make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect.

a. If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.

b. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

G. Cultural Resources Discovered After Construction Begins

The following procedures shall be **a**~~e~~ffected when cultural resources are discovered during construction activities**, and shall be included as conditions of approval for all review uses**. All survey and evaluation reports and mitigation plans shall be submitted to the local government and the SHPO. ~~Indian tribal~~**Tribal** governments shall also receive a copy of all reports and plans if the cultural resources are ~~prehistoric~~**precontact** or otherwise associated with Native Americans.

1. Halt Construction:– All construction activities within 100 feet of the discovered cultural resource shall cease.– The cultural resources shall remain as found; further disturbance is prohibited.

2. Notification:— The project applicant shall notify the County Planning Office and the Gorge

Commission within 24 hours of the discovery.—— If the cultural resources are ~~prehistoric~~**precontact** or otherwise associated with Native Americans, the project applicant shall also notify the ~~Indian tribal~~**Tribal** governments within 24 hours.

3. Survey and Evaluation:– The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Office (see, ORS 358.905 to 358.955).

a. The Commission will gather enough information to evaluate the significance of the cultural resources.

b. The survey and evaluation will be documented in a report that generally follows the criteria in the "Reconnaissance Survey Reports--Large Scale Uses" and "Evaluation of Significance, Evaluation Criteria and Information Needs" of this chapter.

c. Based on the survey and evaluation report and any written comments, the County will make a final decision on whether the resources are significant.

d. Construction activities may recommence if the cultural resources are not significant.

e. A mitigation plan will be prepared by the Gorge Commission if the affected cultural resources are significant.

4. Mitigation Plan:– Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in F above, Mitigation Plans.

5. All survey and evaluation reports and mitigation plans shall be submitted to the County Planning Office and the State Historic Preservation Office.

6. ~~Indian tribal~~**Tribal** governments also shall receive a copy of all reports and plans if the cultural resources are ~~prehistoric~~**precontact** or otherwise associated with Native Americans.

7. Construction activities may recommence when the conditions in the mitigation plan have been executed.

H. Discovery of Human Remains

The following procedures shall be **used** ~~effected~~ when human remains are discovered during a cultural resource survey or during construction**, and shall be included as a condition of approval for all review uses**.— Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. Halt Activities:— All survey, excavation, and construction activities shall cease.— The human remains shall not be disturbed any further.

2. Notification:—— Local law enforcement officials, the County Planning Office, the Gorge

Commission, and the ~~Indian tribal~~**Tribal** governments shall be contacted immediately. **Do not contact any other entity than those listed here.**

3. Inspection: The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are ~~prehistoric~~**precontact**/historic or modern. Representatives from the ~~Indian tribal~~**Tribal** governments shall have an opportunity to monitor the inspection.

4. Jurisdiction: If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.

5. Treatment: ~~Prehistoric~~**Precontact**/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760.

6. If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in F above, Mitigation Plans.

   a. The mitigation plan shall accommodate the cultural and religious concerns of Native Americans.

   b. The cultural resource protection process may conclude when the conditions set forth in F above, Mitigation Plans, are met and the mitigation plan is executed.

I. Reconnaissance Surveys -- Small Scale Uses

~~Recoonnaissance~~**Reconnaissance surveys for small-scale uses shall be designed by a qualified professional.** Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

1. A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

2. Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present.

3. Subsurface probes will be placed at intervals sufficient to determine the absence or presence of cultural resources.

J. Reconnaissance Survey Reports--Small Scale Uses

The results of a reconnaissance survey shall be documented in a confidential report that includes:

1. A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

2. A description of any cultural resources that were discovered in the project area, including a written description and photographs.

3. A map that shows the project area, the areas surveyed, the location of subsurface probes, and if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

K. Reconnaissance Surveys--Large Scale Uses

Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following standards:

1. Archival research shall be performed prior to any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeologic, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

2. Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

3. Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

4. Archaeological site inventory forms shall be submitted to the State Historic Preservation Office whenever cultural resources are discovered.

L. Reconnaissance Survey Reports--Large Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report. Reconnaissance survey reports shall include:

1. A description of the proposed use, including drawings and maps.

2. A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

3. A list of the documents and records examined during the archival research and a description of any ~~prehistoric~~**precontact** or historic events associated with the project area.

4. A description of the fieldwork methodology used to identify cultural resources, including a map

that shows the project area, the areas surveyed, and the location of subsurface probes.— The map shall be prepared at a scale **that provides accurate and readable details.– In no event shall the scale be less than** ~~of~~ 1 inch equals 100 feet (1:1,200)**.** ~~, or a scale providing greater detail.~~

5. An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map.— The map shall be prepared at a scale **that provides accurate and readable details.— In no event shall the scale be less than** ~~of~~ 1 inch equals 100 feet (1:1,200)**.** ~~, or a scale providing greater detail.~~

6. A summary of all written comments submitted by ~~Indian tribal~~**Tribal** governments and other interested persons.

7. A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources.— This assessment shall incorporate concerns and recommendations voided during consultation meetings and information obtained through archives and ethnographic research and field surveys.

M. Historic Surveys and Reports

Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures.

1. Historic surveys shall include original photographs and maps.– Archival research, blueprints, and drawings should be used as necessary.

2. Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

3. The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

N. Cultural Advisory Committee

The Gorge Commission will establish a Cultural Advisory Committee.— The Cultural Advisory Committee will be comprised of cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes.

The Cultural Advisory Committee will perform six principal functions:

1. Monitor cultural resource surveys, evaluations, impact assessments, and mitigation plans;

2. Periodically formulate and submit recommendations to the State Historic Preservation Office, local governments, and the Gorge Commission regarding cultural resource surveys, evaluations, impact assessments, and mitigation plans;

3. Monitor cultural resource decisions made by the State Historic Preservation Office and the local governments;

4. Recommend procedural and administrative changes to the Gorge Commission that would improve the cultural resource protection process;

5. Advise the Gorge Commission on the design and implementation of future cultural resource inventories, including oral history programs and survey strategies; and

6. Review evaluations of significance when a disagreement arises between a project applicant and an ~~Indian tribal~~**Tribal** government.

a. In these instances, the Cultural Advisory Committee will submit written recommendations to the local government.

b. Recommendations will be based on the evaluation prepared by the project applicant, reports submitted by ~~Indian tribal~~**Tribal** governments, and comments submitted by interested persons, including the State Historic Preservation Office.

Section 14.510– Cultural Resources (SMA Only)

In addition to the standards and conditions listed in this chapter for the GMA, the following standards apply to all lands in the Special Management Area:

A. If a standard or condition of this Section is more restrictive than other sections of this chapter, this section is controlling;

B. This section is applicable to all Federal agencies for new developments and land uses on all Federal lands, federally assisted projects and forest practices.— The Forest Service will provide for completing the requirements of this Section for forest practices and National Forest system lands.

C. All projects that are not included for review in B above shall be reviewed under Section 14.500 of this Chapter.

D. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved.— Principal Investigators shall meet the professional standards published in 36 CFR Part 61.

E. For federal or federally assisted undertakings, the reviewing agency will complete its consultation responsibilities under Section 106 of the Historic Preservation Act of 1966.– [36 CFR 800.2]

F. Discovery During Construction:

1. All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the reviewing agency in the event of the inadvertent discovery of cultural resources during construction or development.

2. In the event of the discovery of cultural resources, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery, and recommend measures to protect and/or recover the resource.

3. If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

a. Stop all work in the vicinity of the discovery.

b. The applicant shall immediately notify the Forest Service, the applicant's cultural resource professional, the County coroner, and appropriate law enforcement agencies.

c. The Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

G. Effects to Cultural Resources

Reviewing agencies shall use the following steps under 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources

1. Literature Review and Consultation

a. An assessment of the presence of any cultural resources, listed on the National Register of Historic Places at the national, state or local level, on or within the area of potential direct and indirect impacts.

b. A search of state and County, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be within 30 days.

c. Consultation with cultural resource professionals knowledgeable about the area.

2. Field Inventory

a. As determined by G(1) above, the presence of a recorded or known cultural resource, including those reported in consultation with the tribal governments on or within the immediate vicinity of a new development or land use, shall require a field inventory by a cultural resource professional.

b. Tribal representatives shall be invited to participate in the field inventory.

c. The field inventory shall consist of one or the other of the following standards, as determined by the cultural resource professional:

(1) Complete Survey:

(a) The systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects.

(b) A complete survey may also require techniques such as clearing of vegetation, auguring or shovel probing of subsurface soils for the presence of buried cultural resources.

(2) Sample Survey:

(a) The sampling of an area to assess the potential of cultural resources within the area of proposed development or use.

(b) This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy.

(c) A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

(d) Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata.

(e) Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

d. A field inventory report is required, and shall include the following:

(1) A narrative integrating the Literature Review in G(1) with the Field Inventory G(2).

(2) A description of the Field Inventory methodology utilized under G(2), describing the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(3) A statement of the presence or absence of cultural resources within the area of the new development or land in use.

(4) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included.

(5) Recommendations and standards for monitoring, if appropriate, shall be included.

e. Report format shall follow that specified by the Oregon State Historic Preservation Office.

f. The field inventory report shall be presented to the Forest Service for review.

3. Evaluations of Significance

a. When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource relative to the criteria of the National Register of Historic Places (36 CFR 60.4).

b. Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

c. Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, "Guidelines for the Evaluation and Documentation of Traditional Cultural Properties", within local and regional contexts.

d. Recommendations for eligibility of individual cultural resources under National Register Criteria A through D (36 CFR 60.4) shall be completed for each identified resource.— The

Forest Service shall review evaluations for adequacy.

e. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

4. Assessment of Effect

a. For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 "Assessing Effects".— Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for (b) through (d) below.– The Forest Service shall review each determination for adequacy.

b. If the proposed development or change in use will have "No Adverse Effect" (36 CFR 800.4) to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11.– If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

c. If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a cultural resource, the type and extent of "Adverse Effect" upon the qualities of the property that make it eligible to the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects").— This documentation shall follow the process outlined under 36 CFR 800.11, ("Failure to Resolve Adverse Effects").

d. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register.– This documentation shall follow the process outlined under 36 CFR 800.11 "Standards ".

5. Mitigation

a. If there will be an effect on cultural resources, measures shall be provided (36 CFR 800.6 "Resolution of Adverse Effects")– for mitigation of effects.– These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, and other appropriate measures.

b. Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

c. The Forest Service shall review all mitigation proposals for adequacy.

H.– Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) a reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

SECTION 14.600 Natural Resources (GMA Only)

A. Wetlands

1. Purpose

a. Achieve no ~~overall net~~ loss of wetlands acreage and functions.

b. ~~Increase the quantity and~~ **Improve the** quality of wetlands.

c. New uses shall avoid wetlands to the greatest extent practicable.

2. Rules for Delineating Wetlands Boundaries

a. The approximate location and extent of wetlands in the Scenic Area is shown on **Statewide Wetlands Inventory** ~~the National Wetlands Inventory (U.S. Fish and Wildlife Service 1987).~~ In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

Some wetlands may not be shown on the wetland inventory or soil survey maps. Wetlands that are discovered by the County planning staff during an inspection of a potential site shall be delineated and protected unless the proposed development is clearly sited beyond the wetland buffers as stated in A(3).

b. Determining the exact location of a wetlands boundary shall be the responsibility of the project applicant.

(1) Wetlands boundaries shall be delineated using the procedures specified in the Corps of Engineers Wetlands Delineation Manual (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997) **and applicable regional supplements as may be revised from time to time.**

(2) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

c. The County may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation.

In the event the adjusted boundary delineation is contested by the project applicant, the County shall, at the applicant's expense, obtain professional services to render a final delineation.

3. Wetlands Buffer Zones

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a. The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

b. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(1) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.

A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(2) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(3) A herbaceous vegetation community is characterized by the presence of herbs, including grass and ~~grasslike~~**grass-like** plants, forbs, ferns, and non-woody vines.

c. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.

(1)	Forest communities:	75 feet
(2)	Shrub communities:	100 feet
(3)	Herbaceous communities:	150 feet

d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.

When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

e. Deschutes River, identified by the Environmental Protection Agency in 2019 as priority cold water refuge fish habitat, requires a 200 feet buffer.

4. Modification to Serviceable Structures and Placement of Minor Water Dependent and Water-Related Structures in Wetlands

The following uses may be allowed in wetlands and wetland buffer zones, subject to (5) below, Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands, (7) below Site Plans, and the remaining applicable

sections of this Chapter.

a. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(1) Increase the size of an existing structure by more than 100 percent;

(2) Result in a loss of wetlands acreage or functions;

(3) Result in a loss of water quality, natural drainage, and fish and wildlife habitat; and

(~~3~~4) Intrude further into a wetland or wetlands buffer zone.

New structures shall be considered to be intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.

b. The construction**, modification, expansion , replacement, or reconstruction** of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretive aids, such as kiosks and signs.

c. The construction**, modification, expansion , replacement, or reconstruction** of water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

d. The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (this does not include private road and driveways), if such actions would not;

(1) Increase the size of an existing structure by more than 100 percemt.

(2) Result in a loss of water resource functions.

(3) Result in a loss of water quality, natural drainage, and fish and wildlife habitat

e. The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to: boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.

f. The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

5. Approval Criteria for Uses in Wetlands. Uses may be allowed only if they meet all of the following criteria:

a. Practicable alternatives for locating the structure outside of the wetland do not exist.

b. All reasonable measures have been applied to ensure that the use will result in the minimum loss of wetlands and in the minimum degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology.

c. The use will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

d. Areas disturbed during construction of the use will be rehabilitated to the maximum extent practicable.

e. The use complies with the Approval Criteria for Other Review Uses in Water Resources below.

f. Proposed uses in wetlands shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

g. The use complies with all applicable federal, state, and local laws.

6. Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands. The uses listed in (4) above may only be allowed upon findings that:

a. Practicable alternatives, as determined by E below, Practicable Alternative Test, minimizing the impacts of the structure do not exist;

b. All reasonable measures have been applied to ensure that the structure will result in the minimum ~~feasible~~ alteration or **degradation** ~~destruction~~ of **ecological** ~~a wetland's~~ functions, **water quality,** existing contour, vegetation, fish and wildlife resources, and hydrology;

c. All wetlands that are altered ~~or destroyed~~ shall be restored, replaced, or enhanced according to (8) below, Wetlands, Compensation Plan

d. The structure will be constructed using best management practices.~~—~~ **Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality**;

e. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

f. The structure complies with all applicable federal, state, and local laws.

g.~~—~~ Proposed uses in wetlands and their buffer zones shall be evaluated for adverse effects, including cumulative effects ,and adverse effects shall be prohibited.

~~6~~**7.** Other Uses and Activities Located in Wetlands or Wetland Buffer Zones.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) and Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Wetlands as specified in (4) above, other uses authorized by the applicable zoning designation may be allowed in wetlands and wetland buffer zones subject to (7) below, Site Plans, the remaining applicable sections of this Chapter and the following criteria:

a. The proposed use is water-dependent~~, or is not water dependent but has no practicable alternative as determined by E, Practicable Alternative Test~~.

b. The proposed use is in the public interest as determined by F, Public Interest Test.

c. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

d. Groundwater and surface-water quality will not be degraded by the proposed use.

e. Those portions of a proposed use that are not water-dependent ~~or have a practicable alternative~~ will not be located in wetlands or wetlands buffer zones.

f. The proposed use complies with all applicable federal, state, and local laws.

g. Areas that are disturbed during construction of the proposed use will be rehabilitated to the maximum extent practicable.

h. Unavoidable impacts to wetlands will be offset through the deliberate restoration, creation,

or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts. Wetlands restoration, creation, and enhancement shall be in accordance with Subsection (8) below, Wetlands Compensation Plans.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(1) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(2) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(3) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(4) The size of replacement wetlands shall equal or exceed the following ratios. The first number specifies the acreage of wetlands requiring replacement and the second number specifies the acreage of wetlands altered or destroyed.

(a) Restoration: 2:1

(b) Creation: 3:1

(c) Enhancement: 4:1

(5) Replacement wetlands shall replicate the functions of the wetland that will be altered ~~or destroyed~~ such that no net loss of wetlands function occurs.

(6) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this standard is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(7) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this guideline is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(8) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(9) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The project applicant shall monitor the

hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

~~7~~**8.** Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

~~8~~**9.** Site Plans

In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include: a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.

~~9~~**10.** Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create, or enhance wetlands. **A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. All wetlands compensation plans must be approved by the local government, after consultation with federal and state agencies with jurisdictions over wetlands.** They shall satisfy the following guidelines **and any others required by federal and state agencies**:

a. Wetlands compensation plans shall be prepared by a qualified professional.

b. The primary responsibility and cost of preparing wetland compensation plans shall be borne by the applicant. If the applicant has no practicable alternative, according to E below, Practicable Alternative Test, to locating within the wetland or wetland buffer area, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.

c. Wetland compensation plans shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

d. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered ~~or destroyed~~ and the wetland that will be restored, created, or enhanced. This assessment shall include information on flora, fauna, hydrology, and wetlands functions.

e. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement, wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

f. Compensation plans shall provide plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot,

slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(1) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(2) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(3) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

g. A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions.— Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

h. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

(1) The Director may require the owner of the property to sign a contract with the County for enforcement of the Wetland Compensation Plan.– Such contract shall be executed within thirty (30) days after 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, no building permit shall be issued for the use covered by the application, nor construction commence 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.

(2) A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Board of Commissioners or a cash deposit from the property owner(s) or contract purchaser(s) in such amount as will assure compliance with the Wetland Compensation Plan may be required.— Such bond or deposit shall be posted before any building permits will be issued or construction may commence.

B. Streams, Ponds, Lakes, and Riparian Areas

1. Purpose

a. Protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

b. Enhance aquatic and riparian areas.

2. Stream, Pond, and Lake Buffer Zones

a. Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer widths shall be required:

(1) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.

(2) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.

(3) Ponds and lakes:

(a) The pond or lake buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected pond or lake. Vegetation communities are classified as forest, shrub, or herbaceous.

(i) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.

A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(ii) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(iii) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grass-like plants, forbs, ferns, and non-woody vines.

(c) Buffer zones shall be measured outward from a pond or lake boundary on a

horizontal scale that is perpendicular to the pond or lake boundary. The following buffer zone widths shall be required.

(i) Forest communities: 75 feet

(ii) Shrub communities: 100 feet

(iii) Herbaceous communities: 150 feet

(d) When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

b. Determining the exact location of the ordinary high water-mark or normal pool elevation shall be the responsibility of the project applicant.— The County may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the project applicant, the County shall, at the project applicant's expense, obtain professional services to render a final delineation.

c. Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

3. Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Aquatic Riparian Areas.

The following uses may be allowed in streams, ponds, lakes, and riparian areas, and their buffer zones subject to (4) below, Approval Criteria for Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Aquatic Riparian Areas, (6) below, Site Plans, the remaining applicable sections of this Chapter and the following:

a. The modification, expansion, replacement or reconstruction of serviceable structures, provided that such actions would not:

(1) Increase the size of an existing structure by more than 100 percent,

(2) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(3) Intrude further into a stream, pond, lake, or buffer zone.

New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

b. The construction**, modification, expansion, replacement, or reconstruction** of minor water-related recreation structures that are available for public use.— Structures in this category

shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretive aids, such as kiosks and signs.

c. The construction**, modification, expansion, replacement, or reconstruction** of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land.~~—~~ Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state or tribal **government** resource agencies.

4. Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Aquatic and Riparian areas. The uses listed in (3) above may only be allowed upon findings that:

a. Practicable alternatives **for locating the structure outside of the water resource or buffer zone do not exist**~~, as determined by E below, Practicable Alternative Test, minimizing the impacts of the structure do not exist~~;

b. All reasonable measures have been applied to ensure that the structure will result in the minimum~~ feasible~~ alteration or **degradation**~~ destruction~~ of **ecological functions,** water quality, natural drainage, **existing contour, vegetation,** and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

c. All aquatic and riparian areas that are altered ~~or destroyed~~ shall be restored, replaced, or enhanced according to (7) below, Rehabilitation and Enhancement Plans;

d. The structure will be constructed using best management practices**. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality**;

e. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

f. The structure complies with all applicable, federal, state and local laws.

g. Proposed uses in aquatic and riparian areas an their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

5. Other Uses and Activities Located in Aquatic and Riparian Areas

Except for uses permitted without review in 3.100 and 3.180(B) (Open Space) and modifications to serviceable structures and placement of minor water-dependent and water-related structures in aquatic and riparian areas as specified in (3) above, other uses authorized by the

applicable zoning designation may be allowed in aquatic and riparian areas subject to (6) below, Site Plans, the remaining applicable sections of this Chapter, and the following criteria:

a. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by E below, Practicable Alternative Test of this section.

b. The proposed use is in the public interest as determined by F below, Public Interest Test of this section.

c. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake and/or buffer zone.

As a starting point, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife.

(2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(3) **Ecological functions, contour, and hydrology shall be maintained.** Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(5) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(6) Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(7) Measures shall be taken to prevent the introduction or spread of invasive plants or aquatic species.

d. Groundwater and surface-water quality will not be degraded by the proposed use.

e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

f. The proposed use complies with all applicable federal, state, and local laws.

g. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall **improve** ~~achieve no net loss of~~ water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past it shall be rehabilitated to its natural condition to the maximum extent practicable.

~~When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.~~

The following rehabilitation and enhancement standards shall apply:

(1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(2) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(5) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(6) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(8) Rehabilitation and enhancement efforts shall be completed no later than 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(9) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The project applicant shall

monitor the replacement vegetation and take corrective measures to meet this standard.

6. Proposed uses in streams, ponds, lakes, and riparian areas and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

7. Site Plans

In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:– a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the ordinary high water-mark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

8. **Mitigation** ~~Rehabilitation and Enhancement~~ Plans

Mitigation~~Rehabilitation and enhancement~~ plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake, and/or buffer zone.– **A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. Plans** ~~They~~ shall satisfy the following standards **and any others required by federal and state agencies**:

a. **Mitigation** ~~Rehabilitation and enhancement~~ plans shall be primarily the responsibility of the applicant.– If the applicant has no practicable alternative, according to E below, Practicable Alternative Test, to locating within the stream, pond, lake, riparian zone, or buffer area, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.

b. **Mitigation** ~~Rehabilitation and enhancement~~ plans shall be prepared by qualified professionals**.**~~, such as fish or wildlife biologists.~~

c. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone.— This assessment shall include hydrology, flora, and fauna.

d. Plans shall include plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(1) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

(2) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(3) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

e. A **minimum** 3-year monitoring, maintenance, and replacement program shall be included in all **mitigation** ~~rehabilitation and enhancement~~ plans.— At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. **Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation shall survive.— The project applicant shall monitor the replacement vegetation and take corrective measures to meet this guideline.** —Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

f. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a **mitigation** ~~rehabilitation and enhancement~~ plan.

(1) The Director may require the owner of the property to sign a contract with the County for enforcement of the Rehabilitation and Enhancement Plan.— Such contract shall be executed within thirty (30) days after 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, no building permit shall be issued for the use covered by the application, nor construction commence, 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.

(2) A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Board of Commissioners or a cash deposit from the property owner(s) or contract purchaser(s) in such amount as will assure compliance with the Rehabilitation and Enhancement Plan may be required.— Such bond or deposit shall be posted before any building permits will be issued or construction may commence.

C. Wildlife Habitat

1. Purpose:

a. Ensure that new uses do not adversely affect **Priority Habitats or** sensitive wildlife ~~areas and~~ sites.

~~"Sensitive wildlife areas" means the 17 land and water areas that are included in the wildlife inventory of the Management Plan.~~ **Priority Habitats are identified by the Forest Service, Oregon Department of Fish and Wildlife, and Washington Department of Fish and Wildlife.~~ The agencies revise their priority habitats from time to time.~~ The list of priority habitats as of the date of adoption of this Plan as listed in Table 1.**

"Sensitive wildlife sites" ~~is used here in a generic sense to refer to sites that are used by species that are:~~**are the locations used by species for nesting roosting, denning or other life cycle needs as identified below:**

(1) Listed as endangered or threatened pursuant to federal or state endangered species acts**; or**~~;~~

(2) Listed as sensitive by the Oregon Fish and Wildlife Commission, or

(3) Considered to be of special interest to **wildlife management authorities and** the public, ~~limited~~ **including** ~~to~~ great blue heron, osprey, mountain goat, golden eagle, **peregrine falcon,** and prairie falcon.

(4) Updated lists of species included in (1), (2), and (3) above can be found on the website for the Wildlife Division of Oregon Department of Fish and Wildlife. ~~A~~**The** ~~list also is maintained by the USDA~~ Forest Service ~~Scenic Area Office~~ and ~~available at~~ the Gorge Commission **also maintain updated lists.**~~office and on its website.~~

b. Enhance wildlife habitat that has been altered ~~or destroyed~~ by past uses.

c.~~—~~ Use regulations to avoid adverse effects of development and land use within and near Priority Habitats or sensitive wildlife sites.

d. Update wildlife data as new areas and sites are discovered and federal or state wildlife lists are revised.

2. Approval Criteria for Fences in Deer and Elk Winter Range

New fences in deer and elk winter range shall comply with the following standards.

a. New fences in deer and elk winter range **may**~~shall~~ be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites.~~—~~ The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

b. New and replacement fences that are allowed in winter range shall comply with the guidelines in **the Forest Service document,** *Specifications for Structural Range*

Improvements (Sanderson et. al. 1990), as summarized below, **and may be revised from time to time,** unless the project applicant demonstrates the need for an alternative design**. To allow deer and other wildlife safe passage**~~:~~

(1) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(2) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires.— A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(3) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence.– It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(4) Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross.– Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

c. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet ~~his/her~~**their** specific and immediate needs, such as controlling hogs and sheep.

3. Uses and Activities Permitted within 1,000 feet of a **Priority Habitat or** Sensitive Wildlife ~~Area or~~ Site.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space), uses and activities authorized by the applicable designation may be allowed within 1,000 feet of a **Priority Habitat or** sensitive wildlife ~~area or~~ site subject to (4) below, Site Plans and Field Surveys, the remaining applicable sections this Chapter and the following criteria:

a. Uses that are proposed within 1,000 feet of a **Priority Habitat or** sensitive wildlife ~~area or~~ site shall be reviewed by the Oregon Department of Fish and Wildlife.

(1) The approximate locations of **Priority Habitats or** sensitive wildlife ~~areas and~~ sites are shown in the wildlife inventory.

(2) State wildlife biologists will help to determine if a new use would adversely affect a **Priority Habitat or** sensitive wildlife ~~area or~~ site.

b. The Site plan shall be submitted to the Oregon Department of Fish and Wildlife by the County.– State wildlife biologists will review the site plan and their field survey records. They will:

(1) Identify/verify the precise location of the **Priority Habitat or sensitive** wildlife ~~area or~~ site,

(2) Ascertain whether the **Priority Habitat or sensitive** wildlife area ~~or~~ site is active or abandoned,

(3) Determine if the proposed use may compromise the integrity of the **Priority Habitat or sensitive** wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons, and

(4) In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

c. The following factors may be considered when site plans are reviewed:

(1) Biology of the affected wildlife species.

(2) Published guidelines regarding the protection and management of the affected wildlife species.~~—~~ Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).

(3) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(4) Historic, current, and proposed uses in the vicinity of the **Priority Habitat or** sensitive wildlife ~~area or~~ site.

(5) Existing condition of the **Priority Habitat or sensitive** wildlife ~~area or~~ site and the surrounding habitat and the useful life of the area or site.

d. The wildlife protection process may terminate if the County, in consultation with the state wildlife agency, determines:

(1) The **Priority Habitat or** sensitive wildlife ~~area or~~ site is not active, or

(2) The proposed use would not compromise the integrity of the **Priority Habitat or sensitive** wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance.

e. If the County, in consultation with the State wildlife agency, determines that the proposed use would have only minor effects on the **Priority Habitat or sensitive** wildlife

~~area or~~ site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses:

(1) A letter shall be sent to the project applicant that describes the effects and measures needed to eliminate them.

(2) If the project applicant accepts these recommendations, the County will incorporate them into its development review order, and

(3) The wildlife protection process may conclude.

f. If the County, in consultation, with Oregon Department of Fish and Wildlife, determines that the proposed use would adversely affect a **Priority Habitat or** sensitive wildlife ~~area or~~ site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing, the project applicant shall prepare a wildlife management plan as specified in 5, Wildlife Management Plans.

g. The County shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife.

(1) The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the County Planning Office.

(2) The county shall record and address any written comments submitted by the state wildlife agency in its development review order.

(3) Based on the comments from the state wildlife agency, the County will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines.

If the final decision contradicts the comments submitted by the state wildlife agency, the County shall justify how it reached an opposing conclusion.

h. The County shall require the project applicant to revise the wildlife management plan to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

i.~~–~~ Proposed uses within 1,000 feet of a **Priority Habitat or** sensitive wildlife ~~area or~~ site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

j. Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists, a wildlife survey and mitigation plan shall be required. This criteria shall not apply to forest practices that are otherwise allowed and that do not violate

conditions of approval for other approved uses.

4. Site Plans and Field Surveys

a. In addition to the information required for all site plans, site plans for uses within 1,000 feet of a **Priority Habitat or** sensitive wildlife ~~area or~~ site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

b. A field survey to identify **Priority Habitat or** sensitive wildlife ~~areas or~~ sites shall be required for:

(1) Land divisions that create four or more parcels;

(2) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(3) Public transportation facilities that are outside improved rights-of-way;

(4) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(5) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

c. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All **Priority Habitat or** sensitive wildlife ~~areas and~~ sites discovered in a project area shall be described and shown on the site plan map.

5. Wildlife **Mitigation** ~~Management~~ Plans

Wildlife **Mitigation Plans** ~~management plan~~ shall be prepared when a proposed use is likely to adversely affect a **Priority Habitat or** sensitive wildlife ~~area or~~ site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects **Priority Habitat or** sensitive wildlife areas ~~and~~ sites, maximizes ~~his/her~~**their** development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet with the following standards:

a. Wildlife management plans shall be prepared by a professional wildlife biologist.

b. The primary responsibility and cost of preparing wildlife management plans shall be borne by the applicant. If the applicant has no practicable alternative, according to E below, Practicable Alternative Test, to locating within 1,000 feet of a **Priority Habitat or** sensitive wildlife ~~area or~~ site, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.

c. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the **Priority Habitat or sensitive** wildlife ~~area or~~ site.

d. The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

e. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

f. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect scenic wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following standards shall apply:

(1) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. ~~Low intensity, non-destructive uses may be conditionally authorized in the core habitat.~~

(2) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a **Priority Habitat or sensitive** wildlife ~~area or~~ site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

g. Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones.

(1) When a buffer zone has been altered o~~r degraded~~ in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

(2) When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required.

(3) Enhancement shall achieve no net loss of the integrity of the wildlife area or site.

(4) Rehabilitation and enhancement actions shall be documented in the wildlife **mitigation** ~~management~~ plan and shall include a map and text.

h. The project applicant shall prepare and implement a 3-year monitoring plan when the affected **Priority Habitat or sensitive** wildlife ~~area or~~ site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists.

(1) It shall include an annual report and shall track the status of the **Priority Habitat or sensitive** wildlife ~~area or~~ site and the success of rehabilitation and/or enhancement actions.

(2) At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful.

(3) In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the **wildlife mitigation plan** ~~rehabilitation and enhancement~~ standards.

D. Rare Plants

1. Purpose

a. Ensure that new uses do not adversely affect **rare** plant species **and ecosystems** that are, according to lists kept current by the Gorge Commission:

(1) endemic to the Columbia River Gorge and vicinity,

(2) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(3) **designated global or state status ranks 1, 2, or 3** ~~listed as endangered or threatened on list (1) or list (2),~~ by the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**. **This includes designated native plant communities.** ~~(For brevity, these species will be referred to as "sensitive" plant species.)~~

b. Encourage the protection of plant species that are classified "Review" {list 3}, or "Watch" {list 4} by the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

c. Enhance the natural habitat of rare plant species.

2. Sensitive Plant Buffer Zones:

a. A 200 foot buffer zone shall be maintained around ~~sensitive plants~~**rare plants**. Buffer zones shall remain in an undisturbed, natural condition.

b. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, manmade features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

c. Requests to reduce buffer zones shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(1) identifies the precise location of the ~~sensitive plants~~**rare plants**,

(2) describes the biology of the ~~sensitive plants~~**rare plants**, and

(3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

(4) All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

d. The County shall submit all requests to reduce sensitive plant species buffer zones to the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

(1) The state heritage program will have 20 days from the date that such a request is mailed to submit written comments to the County Planning Office.

(2) The County shall record and address any written comments submitted by the state heritage program in its development review order.

(3) Based on the comments from the state heritage program, the County will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the state heritage program, the County shall justify how it reached an opposing conclusion.

3. Uses and Activities Permitted Within 1,000 Feet of a Sensitive Plant

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) uses and activities authorized by the applicable zoning designation may be allowed within 1,000 feet of a ~~sensitive~~ **rare** plant subject to (4) below, Site Plans and Field Surveys, the remaining applicable

sections of this Chapter and the following criteria:

a. Uses that are proposed within 1,000 feet of a ~~sensitive plant~~**rare plant** shall be reviewed by the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

(1) The approximate locations of ~~sensitive plants~~**rare plants** are shown in the rare plant species inventory.

(2) State heritage staffs will help determine if a new use would invade the buffer zone of ~~sensitive plants~~**rare plants**.

b. Site plans shall be submitted to the State Natural Heritage Program by the County.

(1) The State Heritage staff will review the site plan and their field survey records.

(2) The State Heritage Office will identify the precise location of the affected plants and delineate a 200 foot buffer zone on the project applicant's site plan.

(3) If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

c. The rare plant protection process may conclude if the County, in consultation with the State Heritage Program, determines that the proposed use would be located outside of a ~~sensitive plant~~**rare plant** buffer zone.

d. New uses shall be prohibited within ~~sensitive plant~~**rare plant** species buffer zones, except for those uses that are allowed outright.

e. If a proposed use must be allowed within a ~~sensitive plant~~**rare plant** buffer zone in accordance with Chapter 6, Variances the project applicant shall prepare a protection and rehabilitation plan that complies with the standards in (7) below, ~~Protection and Rehabilitation Plans~~**Rare Plant Mitigation Plans**.

f. The County shall submit a copy of all field surveys and ~~protection and rehabilitation plans~~**Rare Plant Mitigation Plans** to the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

(1) The state heritage program will have 20 days from the date that a field survey is mailed to submit written comments to the County.

(2) The County shall record and address any written comments submitted by the state heritage program in its development review order.

g. Based on the comments from the State Heritage Program, the County will make a final

decision on whether the proposed use would be consistent with the rare plant policies and guidelines.— If the final decision contradicts the comments submitted by the state heritage program, the County shall justify how it reached an opposing conclusion.

h. Proposed uses within 1,000 feet of a ~~sensitive plant~~**rare plant** shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

4. Site Plans and Field Surveys

a. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a ~~sensitive plant~~**rare plant site** shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

b. A field survey to identify ~~sensitive plants~~**rare plants** shall be required for:

(1) land divisions that create four or more parcels;

(2) recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(3) Public transportation facilities that are outside improved rights-of-way;

(4) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(5) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment and— appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

c. Field surveys shall cover all areas affected by the proposed use or recreation facility.

(1) Field surveys shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. **They shall be conducted when plants are expected to be flowering or most easily detectable.**

(2) Field surveys shall identify the precise location of the ~~sensitive plants~~**rare plants** and delineate a 200 foot buffer zone.

(3) The results of a field surveys shall be shown on the site plan map **and kept confidential by Wasco County as required by state law**.

5. ~~Protection and Rehabilitation~~**Rare Plant Mitigation** Plans

~~Protection and rehabilitation plans~~**Rare Plant Mitigation Plans** shall minimize and offset unavoidable impacts that result from a new use that occurs within a ~~sensitive plant~~**rare plant** buffer zone as the result of a variance granted according to Chapter 6.~~–~~ All plans shall meet the following guidelines:

a. ~~Protection and rehabilitation plans~~**Rare Plant Mitigation Plans** shall be prepared by a professional botanist or plant ecologist.

b. The primary responsibility and cost of preparing ~~protection and rehabilitation plans~~**Rare Plant Mitigation Plans** shall be borne by the applicant.~~–~~ Recognizing the limited number of situations in which an applicant will be forced to locate within a ~~sensitive plant~~**rare plant** buffer area, the Forest Service has agreed to provide assistance in the preparation of these plans, to the greatest extent possible.

c. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

d. ~~Sensitive plants~~**Rare plants** that will be **altered** ~~destroyed~~ shall be transplanted or replaced to the maximum extent practicable.

(1) Replacement is used here to mean the establishment or a particular plant species in areas of suitable habitat not affected by new uses.

(2) Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

(3) Replacement shall occur as close to the original plant site as practicable.

(4) The project applicant shall ensure that at least 75 percent of the replacement plants survive three years after the date they are planted.

e. ~~Sensitive plants~~**Rare plants** and their surrounding habitat that will not be altered ~~or destroyed~~ shall be protected and maintained.~~—~~ Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control.

f. Habitat of a ~~sensitive plant~~**rare plant** that will be affected by temporary uses shall be rehabilitated to a natural condition.

g. Protection efforts shall be implemented before construction activities begin.~~–~~ Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

h. ~~Protection and rehabilitation plans~~**Rare Plant Mitigation Plans** shall include maps, photographs, and text.~~–~~ The text shall:

(1) Describe the biology of ~~sensitive plant~~**rare plant** species that will be affected by a proposed use.

(2) Explain the techniques that will be used to protect ~~sensitive plants~~**rare plants** and their surrounding habitat that will not be altered ~~or destroyed~~.

(3) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(4) Include a 3-year monitoring, maintenance, and replacement program.— The project applicant shall prepare and submit to the County an annual report that documents milestones, successes, problems, and contingency actions.

E. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

1. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, streams, ponds, lakes, riparian areas, wildlife **areas or sites**, or plant areas and sites; and

2. The basic purpose of the use cannot be ~~reasonably~~ accomplished by reducing its size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, streams, ponds, lakes, riparian areas, wildlife or plant areas and sites.; and

3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed.~~—~~ Such constraints include inadequate infrastructure, parcel size, and land use designations.~~—~~ If a land use designation or ~~recreation~~ **Recreation** ~~intensity~~ **Intensity** ~~class~~ **Class** is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.

F. Public Interest Test

The following factors shall be considered when determining if a proposed use is in the public interest:

1. The extent of public need for the proposed use. **For uses in wetlands, public need is limited to uses necessary to alleviate a current public safety issue supported by evidence establishing the safety issue.**

2. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

3. The functions and size of the wetland, stream, pond, lake, or riparian area that may be affected.

4. The economic value of the proposed use to the general area.

4. The ecological value of the wetland, stream, pond, lake, or riparian area and probable effect on public health and safety, fish, plants, and wildlife.

SECTION 14.610– Natural Resources (SMA Only)

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

1. Purpose - Protect and enhance the quantity and quality of water resources and their functions.

2. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or development. Comments from state and federal agencies shall be carefully considered.

a. All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in (2)(a) and (b) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(1) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a Mitigation Plan as described in E below.

(2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(a) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(b) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(c) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

i. The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

ii. The wetland is not critical habitat.

iii. Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(3) The buffer width shall be increased for the following:

(a) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(b) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(c) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(4) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

(a) the integrity and function of the buffer zones is maintained,

(b) the total buffer area on the development proposal is not decreased,

(c) the width reduction shall not occur within another buffer, and

(d) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(5) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant

(a) identifies the precise location of the sensitive wildlife/plant or water resource,

(b) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and

(c) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(6) The County shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the County will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the County shall justify how it reached an opposing conclusion.

b. When a buffer zone is disturbed by a new use, it shall be replanted with only native plant

species of the Columbia River Gorge.

c. The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

d. Wetlands Boundaries shall be delineated using the following:

(1) The approximate location and extent of wetlands in the Scenic Area is shown on the **Statewide Wetlands Inventory**~~National Wetlands Inventory (U. S. Department of the Interior 1987)~~. In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(2) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(3) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)' **and applicable Regional Supplements**.

(4) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

e. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes.— The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

f. The County may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the County shall obtain professional services, at the project applicant's expense, or the County will ask for technical assistance from the Forest Service to render a final delineation.

g. Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(1) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(2) Filling and draining of wetlands shall be prohibited with exceptions related to public

safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(a) A documented public safety hazard exists or a restoration/ enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(b) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(c) The proposed project minimizes the impacts to the wetland.

h. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a Mitigation Plan as described in E below.

i. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

B. Wildlife and Plants

1. Purpose

a. Protect (ensure that new uses do not adversely affect, including cumulative effects) and enhance the wildlife and plant diversity of the Gorge.

b. Encourage the protection of plant species that are classified as "List 3 (Review)" or "List 4 (Watch)" by the ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center**.

c. Ensure that new uses do not adversely affect natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources.

2. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

a. Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ~~ft~~**ft.** of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the Priority Habitats Table below, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

b. The County shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive

wildlife and/or plant area or site) for review to the Forest Service and Oregon Department of Fish and Wildlife and ~~Oregon Natural Heritage Program~~**Oregon Biodiversity Information Center** for plant issues.

c. The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(1) Identify/verify the precise location of the wildlife and/or plant area or site,

(2) Determine if a field survey will be required,

(3) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site.~~—~~ This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and

(4) Delineate the undisturbed 200 ~~ft~~**ft.** buffer on the site plan for ~~sensitive plants~~**rare plants** and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(a) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

i. the integrity and function of the buffer zones is maintained,

ii. ~~the~~**The** total buffer area on the development proposal is not decreased,

iii. ~~the~~**The** width reduction shall not occur within another buffer, and

iv. ~~the~~**The** buffer zone width is not reduced more than 50% at any particular location.~~—~~ Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(b) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant**):**~~,~~

i. identifies the precise location of the sensitive wildlife/plant or water resource,

ii. ~~describes~~**Describes** the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and

iii. ~~demonstrates~~**Demonstrates** that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their

surrounding habitat that is vital to their long-term survival or water resource and its ~~long term~~**long-term** function.

(c) The County shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the County will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the County shall justify how it reached an opposing conclusion.

d. The County, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(1) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron.

(2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(3) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(4) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(5) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(6) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000).

(7) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(8) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(9) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

PRIORITY HABITATS TABLE	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.

Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.
Winter Range	**Provides important wintering habitat for deer and elk.**

e. The wildlife/plant protection process may terminate if the County, in consultation with the Forest Service and state wildlife agency or Heritage program, determines

(1) ~~the~~**The** sensitive wildlife area or site is not active, or

(2) ~~the~~**The** proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and

(3) ~~the~~**The** proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the County shall incorporate them into its development review order and the wildlife/plant protection process may conclude.

f. If the above measures fail to eliminate the ~~adverse affects~~**adverse effects**, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test in D below, and prepare a Mitigation Plan pursuant to E below to offset the adverse effects by deliberate restoration and enhancement.

g. The County shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The County shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in its development review order.

Based on the comments from the state and federal wildlife agency/heritage program, the County shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the County shall justify how it reached an opposing conclusion.

h. The County shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

i. Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

C. Soil Productivity

Soil productivity shall be protected using the following criteria:

1. A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

2. New developments and land uses shall control all soil movement within the area shown on the site plan.

3. The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

4. Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

D. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

1. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.

2. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.

3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

E. Mitigation Plan

1. Mitigation Plan shall be prepared when:

a. The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites)

b. There is no practicable alternative according to D below, Practicable Alternative Test.

2. In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

3. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects **the identified** ~~sensitive~~ water resources, and **rare** wildlife/plant areas and sites, that maximizes ~~his/her~~**their** development options, and that mitigates, through restoration, enhancement, **creation** and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

4. The applicant shall submit the mitigation plan to the County. The County shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the County shall justify how it reached an opposing conclusion.

5. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

6. Mitigation plans shall include maps, photographs, and text. The text shall:

a. Describe the biology and/or function of the **protected** ~~sensitive~~ resources (~~eg.~~**e.g.** Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the **protected** ~~sensitive~~ resource ~~to be altered or destroyed~~ and the condition of the resource that will result after restoration **shall** ~~will~~ be required. Reference published protection and management guidelines.

b. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the **protected** ~~sensitive~~ resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

c. Explain the techniques that will be used to protect the **protected** ~~sensitive~~ resources and their surrounding habitat that will not be altered ~~or destroyed~~ (for examples, delineation of core habitat of the **protected** ~~sensitive~~ wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

d. Show how restoration, enhancement, and ~~replacement (~~creation~~)~~ measures will be applied to ensure that the proposed use results in minimum feasible impacts to **protected** ~~sensitive~~ resources, their buffer zones, and associated habitats.

e. Show how the proposed restoration, enhancement, or ~~replacement (~~creation~~)~~ mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid

a **protected**~~sensitive~~ resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the County, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

7. At a minimum, a project applicant shall provide to the County a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

8. A final monitoring report shall be submitted to the County for review upon completion of the restoration, enhancement, **creation** or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any **rare** ~~sensitive~~ wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions.~~—~~ The County shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the County in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

9. Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

a. Restoration and enhancement efforts shall be completed no later than one year after the **protected** ~~sensitive~~ resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

b. All natural vegetation within the buffer zone shall be retained to the greatest extent practicable.~~—~~ Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control.~~—~~ Within five years, at least 75 percent of the replacement vegetation **shall** ~~must~~ survive.~~—~~ All plantings must be with native plant species that replicate the original vegetation community.

c. Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

d. If this standard is not feasible or practical because of technical constraints, a **protected** ~~sensitive~~ resource of equal or greater benefit may be substituted, provided that no net loss of ~~s~~**protected**~~ensitive~~ resource functions occurs and provided the County, in consultation with the appropriate **s**~~S~~tate and **f**~~F~~ederal agency, determine that such substitution is justified.

e. ~~Sensitive plants~~**Rare plants** that will be **altered** ~~destroyed~~ shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted

f. Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(1) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(2) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.

(3) Fish passage shall be protected from obstruction.

(4) Restoration of fish passage should occur wherever possible.

(5) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(6) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(7) Those portions of a proposed use that are not water-dependent or that have a practicable alternative **shall** ~~will~~ be located outside of stream, pond, and lake buffer zones.

(8) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(9) ~~-~~The size of restored, enhanced, and ~~replacement (~~creat**ed**~~ion)~~ wetlands shall equal or

exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2: l
Creation: 3: l
Enhancement: 4: l

g. Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years.– Self-functioning is defined by the expected function of the wetland as written in the mitigation plan.– The monitoring report shall be submitted to the County to ensure compliance.– The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the County to help evaluate such reports and any subsequent activities associated with compliance.

h. Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in (f)(9) above.– These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

SECTION 14.700 – Recreation Resources (GMA Only)

A. Purpose

1. Protect and enhance recreation resources consistent with **tribal** ~~Indian~~ treaty rights.

2. Protect scenic, natural, cultural and recreation resources when providing new recreation opportunities.

B. Recreation Intensity Classes

The following uses are permitted in the applicable Recreation Intensity Class designation, subject to compliance with Subsections (C) Approval Criteria for Recreation Uses and (D) Facility Design Standards for all Recreation Projects.

1. Recreation Intensity Class 1 (Very Low Intensity)

~~A~~a. – Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent away from roads and recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

~~B~~b. – Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities are allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

~~C~~c. – Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

~~D~~d. – The following uses may be permitted:

(~~a.~~1) ~~———~~Parking areas**,** ~~for a maximum~~ **not to exceed a site-wide capacity** of 10 **vehicles, when associated with** ~~cars for~~ any allowed uses in Recreation Intensity Class 1. **Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.**

(2~~b~~). Trails for hiking, equestrian**,** and mountain biking use.

(3~~c.~~) Pathways for pedestrian and bicycling use.

(4~~d~~). Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

~~e~~(5). Scenic viewpoints and overlooks.

(6)~~f.~~ Wildlife/botanical viewing and nature study areas.

(7~~g~~). River access areas.

~~**h.** Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.~~

~~**i.** Entry name signs, not to exceed 10 square feet per sign.~~

(~~j~~8.) Boat docks, piers**,** or wharfs.

(9)~~k.~~ Picnic areas.

(10~~l~~). Restrooms/comfort facilities.

~~2~~**2.** Recreation Intensity Class 2 (Low Intensity)

~~A~~**a.** **Social Setting: RIC 2 is characterized by opportunities to experience relaxation, physical fitness and outdoor learning and where there is a moderate probability to experience solitude. Typically encounters with other visitors throughout the designation is Low to Moderate. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads, and moderate to high near (within 1 mile) recreation sites and roads.**

~~B~~**b.** **Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.**

~~C~~**c.** **Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.**

~~D~~**d.** **The following uses may be permitted.**

~~A~~(1). All uses permitted in Recreation Intensity Class 1.

~~B~~(2). Parking areas**,** ~~for a maximum~~**not to exceed a site-wide capacity** of 25

vehicles~~cars~~**, when associated with** ~~to serve~~ any allowed uses in Recreation Intensity Class 2. Parking spaces for campground units **shall** ~~are to~~ be included in this number. **Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.**

~~C. Simple interpretive signs and displays, not to exceed a total of 100 square feet.~~

~~D. Entry name signs, not to exceed 20 square feet per sign.~~

~~E.~~**(3)** Boat ramps, not to exceed two lanes.

~~F.~~**(4)** Campgrounds for 20 units or less, tent sites only.

3. Recreation Intensity Class 3 (Moderate Intensity)

a. **Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.**

~~B~~**b. Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.**

~~C.~~**c. Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.**

~~D.~~**d. The following uses may be permitted.**

~~A.~~**(1)** All uses permitted in Recreation Intensity Classes 1 and 2.

~~B.~~**(2)** Parking areas **not to exceed a site-wide capacity of**~~for a maximum of~~ 75 **vehicles, when associated with**~~cars, to serve~~ any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units **shall** ~~are to~~ be included in this number.

~~C~~**(3)**~~.~~ ~~Interpretive signs, displays and/or facilities.~~ **Accommodation of facilities for mass transportation (bus parking, etc.(shall be required for all new Recreation Intensity Class 3 day-use recreation sites, and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access.– The number and size of the mass transportation facilities shall reflect the physical capacity of the site.**

~~D. Visitor information and environmental education signs, displays or facilities.~~

~~E. Entry name signs not to exceed 32 square feet per sign.~~

~~F.~~**(4)** Boat ramps, not to exceed three lanes.

~~G.~~**(5)** Concession stands, pursuant to applicable policies in this chapter.

~~H.~~**(6)** Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas).~~—~~ Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

4. Recreation Intensity Class 4 (High Intensity)

~~A.~~ **a. Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within in this designation.**

~~B.~~ **b. Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.**

~~C~~**c.**~~—~~ **The maximum of site design capacity for parking areas shall not exceed 250 vehicles for any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units are to be included in this number.**

~~D~~**d.**~~—~~ **Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.**

e~~E~~**. ~~—~~The following uses may be permitted.**

~~A.~~**(1)** All uses permitted in Recreation Intensity Classes 1, 2, and 3.

~~B.~~**(2)** Parking areas**, not to exceed a site-wide capacity of** ~~for a maximum of~~ 250 **vehicles,** ~~cars to serve~~**with**~~—~~ any allowed uses in Recreation Intensity Class 4. Parking spaces for campground units are to be included in this number.

~~C.~~**(3)** Horseback riding stables and associated facilities.

~~D.~~**(4)** ~~Entry name signs, not to exceed 40 square feet per sign.~~**Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites and improvements to existing Class 4 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access.– The number and size of the mass transportation facilities shall reflect the physical capacity of the site.**

~~E.~~**(5)** Boat ramps.

~~F.~~**(6)** ~~–~~Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

Approval Criteria for Recreation Uses

1. For all proposed recreation projects outside of Public or Commercial Recreation designations, project applicants**/landowners** shall demonstrate compliance with the following criteria (if applicable) ~~as a condition of project approval~~:

A. ~~-~~Compliance with all applicable guidelines in the Management Plan for the protection of scenic, cultural, recreation, and natural resources. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "Compatible Recreation Use Guideline" for the landscape setting in which the proposed project is located (see Part I, Chapter 1: Scenic Resources of the Management Plan)

Cumulative effects of proposed recreation projects on landscape settings shall be based on the stated "compatible recreation use" for the designated landscape setting in which the proposed project is located.

B. ~~-~~For proposed recreation projects in or adjacent to lands designated Large or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland:

(1) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses.– Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(2) A declaration has been signed by the project applicant or owner and recorded with County deeds and records specifying that the applicant or owner is aware that operators are

entitled to carry on accepted forest or farm practices on lands designated Large or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

C. For proposed projects including facilities for outdoor fires for cooking or other purposes**,** or proposed campgrounds:

(1) The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the County fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities.

(2) To provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

D. For proposed trail or trailhead projects: ~~-~~compliance with **the following:**~~applicable trail policies in the Management Plan.~~

~~(1).~~ **Where applicable, new trails should İncorporate existing segments of older or historic trails, abandoned roads and railroad rights-of-way, and other previously developed areas suitable for recreation use to the maximum extent practicable.**

~~(2).~~ **Trails that are intended for multiple user groups shall be required to post signs at trailheads alerting users that multiple user groups may be present on the trail. Trails shall be designed such that user conflicts and safety issues are minimized.**

(3) ~~–~~ **Applications for new trails or trailheads shall include measures to minimize the potential spread of noxious weeds.**

(4) ~~–~~ **Applications for new trails or trailheads shall consider the potential of fire risk during critical fire hazard periods in developing the physical and managerial setting of the site.**

E. For proposed projects providing **recreation** ~~boating or windsurfing~~ access to the Columbia River or its tributaries: **applicants shall demonstrate that the new facility is consistent with** ~~compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.~~**and does not affect or modify tribal treaty rights.**

F. For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries shall comply with **the** guidelines ~~for protection of tribal treaty rights~~, as defined in Sections 14.800 and 14.810, ~~Indian Tribal~~**Tribal** Treaty Rights and Consultation.

G. Proposed projects which include interpretation of natural or cultural resources shall demonstrate that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

H. Applications for public recreation development in ~~For proposed~~ Recreation Intensity Class **3 and** 4 projects **shall** ~~(except for projects predominantly devoted to boat access),~~ ~~demonstration~~ **demonstrate how the proposed recreation development will be equitable and accessible (regardless of income level, ethnicity, gender, ability or age).**~~that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that providing such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.~~**Applications for public recreation development in RIS 1 and 2 shall meet this standard to the maximum extent practicable.**

~~H.~~**I. Applications shall demonstrate compliance with the social, physical and managerial setting characteristics in the applicable Recreation Intensity Class description.**

Facility Design Standards for All Recreation Projects

1. Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the standards and criteria contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

2. The facility design standards contained herein are intended to apply to individual recreation facilities. ~~For the purposes of these standards, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.~~

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads) from such developments or improvements.

3. ~~Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.~~

~~4.~~ Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable**. These trees may be used to**~~, and utilized to screen parking areas and campsites from Key Viewing Areas and~~ satisfy requirements for perimeter and interior landscaped buffers.

4.~~5.~~ Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

5.~~6.~~ Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

6~~7~~**.** Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

~~8~~**7.** ~~Signage~~ **Signs** shall be limited to ~~that~~ **those** necessary to provide relevant, recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

~~9. Exterior lighting shall be shielded, designed, and sited in a manner that prevents such lighting from projecting offsite or being highly visible from key viewing areas.~~

8~~10~~**.** Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the County shall allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

~~11~~**9.** A majority of trees, shrubs, and other plants in landscaped areas shall be species native ~~or naturalized~~ to the landscaped setting in which they occur. The landscape setting **descriptions and** design guidelines **are found in** Section 14.400 ~~specify appropriate species.~~ **Project applicants that are required to use new landscaping are encouraged to place trees, shrubs and other plants in a manner approximating their natural condition.**

~~12. All structures shall be designed so that height, exterior colors, reflectivity, mass, and siting enable them to blend with and not noticeably contrast with their setting.~~

~~13. Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.~~

~~14.~~ **10.** **For any parking area with over 50 spaces,** ~~I~~**i**nterior landscaped buffers breaking up continuous areas of parking **into discrete "islands"** shall be provided ~~for any parking areas over 50 spaces in size.~~ The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

~~15. Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire~~

~~perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.~~

~~16. Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the County, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.~~

~~17.~~ **11.** Grading or soil compaction within the "drip line" of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

~~18. All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet.~~

~~a. Required perimeter landscaped buffers may be included when calculating such setbacks.~~

~~b. Setbacks from rivers shall be measured from the ordinary high water mark.~~

~~c. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.~~

~~19.~~ **12.** Project applicants**/landowners** shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape standards contained herein, and shall be responsible for such maintenance and survival.

13. ~~20.~~ All parking areas shall be set back from property boundaries by at least 50 feet.~~—~~ All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

~~21. All proposed projects at levels consistent with Recreation Intensity Class 4 (except proposals predominantly devoted to boat access) shall comply with C(9) above regarding provision of mass transportation access.~~

Variances and Plan Amendments

1. The County may grant a variance to the setback and buffer requirements contained in this Chapter in accordance with Chapter 6 and upon findings that the following conditions exist:

A. The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor;

B. All reasonable measures to redesign the proposed project to comply with required setbacks

and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed;

C. Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

D. The variance is the minimum necessary to accommodate the use.

2. The County may grant a variance of up to 10 percent to the standards of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(The provisions of Chapter 6, Variances shall not apply)

A. Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from **the National Visitor Use Monitoring Program** ~~Scenic Area recreation demand studies~~ shall be relied upon to meet this criterion in the absence of current applicable studies.

B. The proposed use is dependent on resources present at the site.

C. Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

D. The proposed use is consistent with the goals, objectives and policies for recreation in the Management Plan.

E. Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

F. Through site design and/or mitigation measures, the proposed use can be implemented without affecting **or modifying** treaty rights.

3. Proposals to change the Recreation Intensity Class of an area to a different class shall require a plan amendment, pursuant to Policies 1 through 4 in "Amendment of the Management Plan" (Part IV, Chapter 1, Gorge Commission Role) of the Management Plan for the Columbia River Gorge National Scenic Area.

F. Proposed development on properties Adjacent to Listed Recreation Sites

Recreation sites shall be protected from adjacent uses that would detract from their use and enjoyment. If new buildings or structures may detract from the use and enjoyment of established

recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.

SECTION 14.710 Recreation Resources (SMA Only)

The following standards apply to the lands in the Special Management Area:

A. If a standard or condition of this subsection is more restrictive than other subsections of this section, this subsection is controlling;

B. New developments and land uses shall not displace existing recreational use.

C. Protect recreation resources from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on- and off-site cumulative effects shall be required.

D. New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

E. Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

F. The **Facility Design Guidelines** facility guidelines are intended to apply to individual recreation facilities. For the purposes of these standards, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads) from such developments or improvements.

G. New development and reconstruction of scenic routes (see Part III, Chapter 1: Recreation Development Plan in the Management Plan) shall include provisions for bicycle lanes.

H. New interpretive or education programs and/or facilities shall follow the recommendations of the "Interpretive Strategy for the Columbia River Gorge National Scenic Area."

I. Only natural resource-based recreation shall be allowed.

J. Recreation resources shall be protected by limiting development and uses as per the Recreation Intensity Classes.

K. Recreation Intensity Classes - (RIC)

The following uses are permitted in the applicable Recreation Intensity Class designation.

1. Recreation Intensity Class 1(Very Low Intensity)

Emphasis is to provide opportunities for semi-primitive recreation opportunities.

~~A. Uses permitted are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.~~

A. Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent away from roads recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

B. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

C.Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

C~~B~~. ~~Maximum site design capacity shall not exceed 35 people at one time on the site.~~ **The m~~M~~**aximum design capacity for parking areas shall be 10 vehicles.

D~~C~~. The following uses may be permitted:

(1) Trails and trailheads.

(2) Parking areas.

(3) Dispersed campsites accessible only by a trail.

(4) Viewpoints and overlooks.

(5) Picnic areas.

(6) Signs.

(7) Interpretive exhibits and displays.

(8) Restrooms.

(9) Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

2. Recreation Intensity Class 2 (Low Intensity)

A. Social Setting: RIC 2 is characterized by opportunities ~~Permitted uses are those that provide settings where people can participate in activities such as~~ **to experience relaxation,** physical fitness, outdoor learning, ~~relaxation,~~ and ~~escape from noise and crowds~~**where there is a moderate probability to experience solitude**. **Visitor encounters are low to moderate on trails and away from developed recreation sites and roads. Usually and moderate to high near (within 1 mile) recreation sites and roads.**

B. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) harmonize with the natural characteristics of the landscape setting. Away from developed recreation ~~sites~~**sites, there is minimal or subtle control of users.**

C. Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of ~~users and are challenging~~**users, are challenging, and involve intermediate to advance skills.**

D. The following uses may be permitted.

(1). All uses permitted in Recreation Intensity Class 1

(2). **Parking areas not to exceed a site-wide capacity of 25 vehicles, when associated with any allowed uses in Recreation Intensity Class 2. Parking spaces for campground units shall be included in this number. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings**

E~~B~~**.** ~~The maximum site design capacity shall not exceed 70 people at one time on the site.~~ The maximum design capacity shall be 25 vehicles.

F~~C~~. All uses permitted in Class 1 are permitted in Class 2. The following uses may also be permitted:

(1) Campgrounds for twenty (20) units or less, tent sites only.

(2) Boat anchorages designed for no more than 10 boats at one time.

(3) Swimming areas.

(4). Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

3. Recreation Intensity Class 3 (Moderate Intensity)

~~Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.~~

A. Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.

B. Physical and Managerial Setting: Changes to the natural landscape, yet can may be evident but in harmony with natural characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural environment.

C. Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

A. Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

B. ~~Maximum site design capacity shall not exceed 250 people at the site.~~ The maximum design capacity shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles would be approved if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

C. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new ~~(~~Recreation Intensity Class 3 day-use recreation sites **and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site**, except for sites predominantly devoted to boat access. **The number and size of the mass transportation facilities shall reflect the physical capacity of the site.**

D. All uses permitted in Classes 1 and 2 are permitted in Class 3. The following uses may also be permitted:

(1) Campgrounds improvement may include water, power, sewer, and sewage dump stations. **Campgrounds shall not exceed a combination of 50 single or group campsites (tent or recreational vehicle) and a total design capacity of 250 people at one time.**

(2) Boat anchorages designed for not more than 15 boats.

(3) Public visitor, interpretive, historic, and environmental education facilities.

(4) Full service restrooms, may include showers.

(5) Boat ramps.

(6) Riding stables.

4. Recreation Intensity Class 4 (High Intensity)

~~Emphasis is on providing roaded natural, rural, and suburban recreation opportunities with a high level of social interaction.~~

A. Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within in this designation.

B. Physical and Managerial Setting: Landscapes with natural appearing backdrop are characterized by this designation. Highly developed recreation facilities and trails are constructed for visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape setting.

C. Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.

A. Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

B. ~~The maximum design capacity shall not exceed 1,000 people at one time on the site.~~ The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles would be approved if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20% of the site.

C. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites **and improvements to existing Class 4 day-use recreation sites where the improvement would increase the use of the site,**, except for sites predominantly devoted to boat access. **The number and size of the mass transportation facilities shall reflect the physical capacity of the site.**

D. All uses permitted in Classes 1, 2, and 3 are permitted in Class 4. **The following uses may also be permitted:**

(1) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations. Campgrounds shall not exceed a combination of 100 single or group campsites (tent or recreational vehicle) and a total design capacity of 500 people at one time.

E. The County may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that all of the following conditions exist:

(The provisions of Chapter 6, Variances shall not apply)

(1) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase.— Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National **Visitor Use Monitoring Program** ~~Scenic Area recreation demand studies~~ shall be relied upon to meet the criterion in the absence of current applicable studies.

(2) The proposed use is dependent on resources present at the site.

(3) Reasonable alternative sites offering similar opportunities, including those in Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(4) The proposed use is consistent with the goals, objectives, and policies in this chapter.

(5) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

(6) Though site design and/or mitigation measures, the proposed use can be implemented without affecting **or modifying** treaty rights.

~~**F.** Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.~~

L. Proposals to change the recreation intensity class of an area shall require a Management Plan amendment pursuant to policies listed in Section 9.090 of this Ordinance and in accordance with applicable Gorge Commission Rules.

M. Proposed development on properties Adjacent to Listed Recreation Sites

Recreation sites shall be protected from adjacent uses that would detract from their use and enjoyment.— If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.

SECTION 14.800~~–~~ ~~Indian Tribal~~Tribal Treaty Rights and Consultation (GMA Only)

A. Purpose

Ensure that the Scenic Area Act, the Management Plan, and these implementing ordinances do not affect or modify any treaty or other rights of any Indian tribe.

B. Tribal Government Notice and Comment Period

1. The County shall send a notice to the **governments of the four Columbia River treaty tribes for all new review uses, requesting comments, recommendations or concerns relating to the protection of treaty rights, including rights to access, hunt, fish and gather** ~~four tribal governments~~ when ~~new uses are~~:

a. proposed on public lands, or

b. proposed in or adjacent to the Columbia River or its tributaries that support anadromous or resident fish.

~~Public lands include lands owned by cities, counties, states, and the United States. Lands adjacent to the Columbia River or its fish-bearing tributaries are those lands that are situated directly between the Columbia River or its fish-bearing tributaries and the closest public access point. Public access points include state highways and parks. The wildlife inventory in the "Streams, Ponds, Lakes and Riparian Areas" section of the Management Plan for the Columbia River Gorge National Scenic Area identifies all tributaries in the Scenic Area that support anadromous and resident fish.~~

2. Notices sent to the ~~Indian tribal~~**Tribal** governments shall include a site plan ~~. As specified in standards 3 and 4 below, the notices~~**and** ~~,~~ also may ~~require~~ **include** supplemental information and **a proposed** treaty rights protection plan~~s~~.

3. **Proposed** ~~N~~**n**ew **review** uses **and development** ~~,~~located in, ~~or~~ providing recreation river access to, **or on parcels that adjoin** the Columbia River or its fish-bearing tributaries, shall include supplemental information:

a. The site plan map also shall show adjacent river areas at least one-half mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

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

~~**(1)** Describe the type of river access and uses proposed, estimated period when the~~

~~development would be used, and anticipated levels of use--people, boats, and other uses--during peak use periods.~~

~~**(2)** List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.~~

~~**(3)** List tribal ceremonial fishing seasons in the project vicinity.~~

~~**(4)** Assess, based on the above factors the potential effects that the proposed uses may have on Indian treaty rights.~~

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

5.~~.~~ At the same time that the county sends notice, the county shall offer to meet with or consult with the tribal government prior to making a decision on the proposed development. Offers to meet or consult with a tribal government shall include phone calls and electronic communication to tribal government chairs, chief administrative officers, and natural and cultural resource staff. The county shall make more than one attempt to contact a tribal government.~~Notices also shall include a treaty rights protection plan if new uses may affect Indian treaty rights.~~

~~**a.** The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights.~~

~~**b.** These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent on-site monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.~~

6~~5~~. ~~Indian tribal~~**Tribal** governments shall have **3**~~20 calendar~~**0-calendar** days from the date a notice is mailed to submit substantive written comments to the County Planning Office.~~—~~ ~~Indian tribal~~**Tribal** governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

C. Tribal Government Consultation

1. ~~When substantive written comments are submitted to the County Planning Office in a timely manner, the project applicant shall offer to meet with the County Planning Office and the Indian tribal government that submitted comments within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.~~

~~Consultation meetings should provide an opportunity for the project applicant and tribal~~

~~representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate this his/her proposed use would not affect or modify treaty or other rights of any Indian tribe.~~

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

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

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

3. The County shall submit all protection plans to the ~~Indian tribal~~**Tribal** governments. ~~Indian tribal~~**Tribal** governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the County Planning Office.

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

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

D. Conclusion of the Treaty Rights Protection Process

1. The County will decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

a. The final decision shall integrate findings of fact that address **the county's effort to meet with or consult with the tribal governments and any revisions and treaty rights protection plan resolving the~~—~~ tribal governments'** ~~any substantive~~ comments, recommendations, or ~~concerns expressed by Indian tribal governments~~**concerns**.

b. If the final decision contradicts the comments, recommendations or concerns of ~~Indian tribal~~**Tribal** governments, the County must justify how it reached an opposing conclusion.

2. The treaty rights protection process may conclude if the County determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe.~~—~~ Uses that would affect or modify such rights shall be prohibited.

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

SECTION 14.810~~–~~ ~~Indian Tribal~~Tribal Treaty Rights and Consultation (SMA Only)

For all new development or new uses in the SMA, the Forest Service is responsible for consulting with ~~Indian tribal~~**Tribal** governments at the government-to-government level.~~–~~ The purpose of this process is to ensure that its management activities will not affect treaty rights, and to provide meaningful participation in the identification, evaluation and protection of cultural resources.

Section 17 (Savings Provisions of the Scenic Area Act) contains several provisions regarding the need to avoid potential effects to treaty rights.~~–~~ Treaty rights are defined by the Treaties of 1855 between the Congress and ~~Indian Tribal~~**Tribal** governments.~~–~~ These rights are not subject to negotiation.~~–~~ Potential effects to treaty rights must be avoided.~~–~~ The Forest Service has no authority to interpret or negotiate in the area of treaty rights.

Cultural resources are protected by the Scenic Area Act and the Historic Preservation Act of 1966. ~~Indian tribal~~**Tribal** governments are identified as parties to be consulted during the inventory, evaluation and protection of cultural resources.

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CHAPTER 15– ADMINISTRATION AND ENFORCEMENT

SECTION 15.010– Administration

It shall be the duty of the Director, or the Director's designee, to enforce the provisions of this ordinance pertaining to property use and to the construction, erection, location or enlargement of any structure located within the National Scenic Area portion of Wasco County, Oregon, under the jurisdiction of this Ordinance.

SECTION 15.020– Zoning Approval

A. The Director, the Director's designee or other Approving Authority shall not give zoning approval on any development or use of land, including land divisions and property line adjustments on a property that is not in full compliance with all applicable provisions of this ordinance, regardless of whether the applicant(s) or current owner(s) created the violation.

B. Zoning approval may be authorized if:

1. It results in the property coming into full compliance with all applicable provisions of the Wasco County Land Use and Development Ordinance.— This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

2. It is necessary to protect public safety; or

3. It is for work related to and within a valid easement over, on or under an affected property.

C. For the purpose of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public.– Examples of that situation include but are not limited to issuance of permits to replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

SECTION 15.030– Authority

Whenever necessary to enforce the provisions of this Ordinance, the Director, or the Director's designee, shall have the authority in addition to other remedies provided by law, to issue compliance notices and orders, assess penalties, record violations and liens with the County Clerk, issue citations, to institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin or abate a violation.

SECTION 15.040– Civil Relief

When a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used in violation of this Ordinance, the County Board of Commissioners, the District Attorney or any person whose interest in real property within the County is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction,

mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings as provided under ORS 32.010 to 32.060, the person shall furnish undertakings as provided under O.R.S. 32.010 to 32.060.

SECTION 15.050 Violation of Ordinance

No person shall construct, erect, locate, maintain, repair, alter, enlarge, use or change the use or uses of any structure or property or shall transfer any property in violation of this Ordinance.

SECTION 15.060 Violation of Ordinance as a Nuisance

The construction, erection, location, maintenance, repair, alteration, enlargement or use or change in use or uses of any structure or property or transfer of any property in violation of this Ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and may be enjoined, abated or removed.

SECTION 15.070 Wasco County Code Compliance and Nuisance Abatement Ordinance

The Wasco County Code Compliance and Nuisance Ordinance is a separate County Board of Commissioners adopted ordinance that implements land use, nuisance and health violations. Please refer to that ordinance for further details related to enforcement of the provisions of the Wasco County National Scenic Area Land Use and Development Ordinance.

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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 Department 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 Department, 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 Department 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 Department, 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 ~~seen~~**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 one year.

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

e. Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as ~~seen~~**visible** from key viewing areas to the greatest extent practicable.

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

(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 Department, 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 Department 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 Department 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 Department 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 Department.

(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 Department 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 Department 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 Department 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 Department 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 Department, 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 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 Department 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 Department, 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 Department, 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 Scenic Area ordinance shall incorporate them into its development review order and the wildlife protection process may conclude.

(5) If the Wasco County Planning Department, 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

Department 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 ~~sensitive plant~~**rare plant**, shall be reviewed by the ~~Oregon Natural Heritage Program~~**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 Department, 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 Department, 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 Department 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 Section 14.600.

(6) The Wasco County Planning Department shall submit a copy of all ~~protection and rehabilitation plans~~**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 Department.

The Wasco County Planning Department 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 Department shall justify how it reached an opposing conclusion.

(7) The Wasco County Planning Department 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 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.

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CHAPTER 17– RECREATIONAL VEHICLE PARKS

SECTION 17.010– Review

In addition to the general provisions of this Ordinance, special provisions for the establishment of a new recreational vehicle park, the expansion of an existing recreational vehicle park or the expansion of an existing mobile home park to contain recreational vehicle sites shall be met.– No Recreational vehicle park shall be established or expanded and no plan for said park or expansion shall be filed or recorded until submitted to and approved by the Approving Authority, in accordance with standards set forth in this section, Chapter 14 - Scenic Area Review, and the underlying zone.– Recreational Vehicles are only allowed in Recreation Intensity Classes three (3) and four (4).– In the event of conflicting requirements to comply with this section and the underlying zones or Chapter 14, the requirements of the underlying zone or Chapter 14 shall be met.

SECTION 17.020– Information Required for Preliminary Site Plan Review

The application for a preliminary site plan review for a recreational vehicle park shall be filed with the Planning Office in the form described by the Director and shall be accompanied by five (5) copies of the site plan showing the general layout of the entire recreational vehicle park and drawn at a scale not smaller than one inch (1") representing fifty feet (50').– The drawing shall show the following information:

A. Name of the property owner, applicant, and person who prepared the plan;

B. Name of the Recreational Vehicle park and address;

C. Scale and north point of the plan;

D. Vicinity map showing relationship of Recreational Vehicle park to adjacent properties and surrounding zoning;

E. Boundaries and dimensions of the Recreational Vehicle park;

F. Location and dimensions of each Recreational Vehicle site; designate each site by number, letter or name;

G. Location and dimensions of each existing or proposed building;

H. Location and width of park streets;

I. Location and width of walkways;

J. Location of each lighting fixture for lighting the mobile home park;

K. Location of recreational areas and buildings, and area of recreational space;

L. Location and type of landscaping plantings, fence, wall, or combination of any of these, or other

screening materials;

M. Extent, location, arrangement and proposed improvements of all off-street parking and loading facilities;

N. Location of available fire and irrigation hydrants;

O. Location of public telephone service for the park;

P. Location and number of toilets provided for men and for women.

Q. Location of all public water facilities.

R. Location of all sanitary dumping stations.

S. Enlarged plot plan of a typical Recreational Vehicle space, showing location of the stand, parking, sidewalk, trails, utility connections and landscaping.

SECTION 17.030– Final Site Plan and Submission Requirements

At the time of application for final approval to construct a recreational vehicle park, or expansion of an existing recreational vehicle park or mobile home park to provide additional recreational vehicle sites, the applicant shall submit copies of the following required detailed plans to the appropriate reviewing departments and agencies as required by law or Ordinance:

A. New structures.

B. Public water systems approved by the Department of Human Resources, Health Division, State of Oregon.

C. Methods of sewage disposal approved by the Department of Environmental Quality, —State of Oregon.

D. Method of garbage disposal.

E. Plan of electrical service.

SECTION 17.040– General Design Standards

A. Access:— A recreational vehicle park shall not be established on any site that does not have access to any public street on which the potential paving width is less than thirty-six (36) feet.

B. Park Street:— A park street shall connect each recreational vehicle site to a public street.— The park street shall be a minimum of thirty-five (35) feet in width, with a service width of at least twenty-five (25) feet if no parking is allowed, and thirty-five (35) feet if parking is allowed on one side only.

C. Walkways:— Pedestrian walkways of not less than three (3) feet in width shall be separated from

vehicular ways and maintained for safe and convenient movement to all parts of the park and connect to ways leading to destinations outside the park.

D. Off Street Parking:

1. Two off-street parking spaces shall be provided for each recreational vehicle site, either on the site or within one hundred (100) feet thereof in the recreational vehicle park, which shall be nine by twenty (9x20) feet in size per space.

2. Guest parking shall also be provided in every recreational vehicle park, based on a ratio of one parking space for each four (4) recreational vehicle sites.

E. Signs:– Signs may be installed according to Chapter 23, Sign Provisions.

F. Fencing and Landscaping:

1. Every recreational vehicle park shall provide a sight-obscuring fence, wall, evergreen or other suitable screening/planting along all boundaries of the recreational vehicle park site abutting public roads or property lines that are common to other owners of property, except for points of ingress and egress.

2. Walls or fences shall be six (6) feet in height.– Evergreen planting shall not be less than five (5) feet in height, and shall be maintained in a healthy, living condition for the life of the recreational vehicle park.

3. There shall be suitable landscaping provided within the front and side yard setback areas, and all open areas in the recreational vehicle park not otherwise used.

G. Lighting:— Lighting shall be designed to produce a minimum of 0.1 foot-candle throughout the street system.– Potentially hazardous location such as a major street intersection and steps or stepped ramps shall be individually illuminated with a minimum of 0.3 foot-candle.— Such lighting shall meet the provisions for all new development in 14.100(F).

H. Area:

1. Size of a recreational vehicle park site:— No recreational vehicle park shall be created on a lot or parcel of land of less than the minimum required to accommodate the density of the underlying zoning regulations.

2. Recreational vehicle sites:— The average area of a recreational vehicle site within a recreational vehicle park shall not be less than 3,000 square feet, and in no case shall any one recreational vehicle site be less than 2,500 square feet, providing that the dwelling unit density for a new recreational vehicle park shall not exceed the allowable density of the district in which it is located.

3. Setbacks:– Shall comply with those established by the underlying zone.

4. Spacing:— A recreational vehicle shall be separated from an adjoining recreational vehicle a minimum of fifteen (15) feet.

5. Overnight Spaces (for expansion of existing mobile home parks):– Not more than ten (10) percent of the total mobile home park area may be used to accommodate persons wishing to park their recreational vehicle overnight.

I. Other Site Requirements:

1. Permitted Uses:– No building, structure or land within the boundaries of a recreational vehicle park shall be used for any purpose except for the uses permitted as follows:

a. Recreational vehicle for temporary detached residential use only.

b. Private and public utilities.

c. Community recreation facilities, including swimming pools, for residents of the park and guests only.

d. One residence for the use of a caretaker or a manager responsible for maintaining or operating the property.

2. Recreational Area:— A minimum of two hundred (200) square feet of recreation area shall be provided for each recreational vehicle space.– The recreation area may be in one or more locations in the park.– At least one recreation area shall have a minimum size of 5,000 square feet, and be of a shape that will make it usable for its intended purpose, and at least fifty percent (50%) of the required recreation area shall be provided for use by residents of the entire park.– Swimming pools shall be set back at least fifty (50) feet from the nearest residential area and will have a fence surrounding it at least eight (8) feet high which does not obscure vision into the pool area.– Rescue devices such as buoyant rings, poles, etc., shall be provided and easily accessible.

3. State Requirements:– Rules and regulations governing mobile home facilities as contained in ORS 446.310 to 446.350 and 446.435, of "Rules and Regulations Governing the Construction and Statutory Operation of Travelers' Accommodations and Tourist Parks", adopted by the Oregon State Department of Human Resources, Health Division, shall be applicable in the development and operation of a recreational vehicle park, provided, that the provision of this Ordinance shall prevail where said provisions are more stringent than those imposed by state law, rules or regulations.

SECTION 17.050– Exceptions

No recreational vehicle shall be permanently attached to the land, or otherwise finished with accessories as provided for in Section 4.100 of this Ordinance.

SECTION 17.060– Occupancy Permit

No permit for occupancy of any recreational vehicle park, building, or facility located within said park shall

be issued by the Building Official until such time as the development has been completed according to the finished plan approved by the Approving Authority. Deviations from the approved plan must be submitted to the Director for approval as revisions of the Plan.

SECTION 17.070 Facilities

Recreational vehicle parks shall be designed to accommodate recreational vehicles. For this purpose recreational vehicle parks shall provide the following facilities, in addition to meeting all other development standards in this section:

A. Toilets at the ratio of one toilet for men and women each for every ten (10) vehicle sites.

B. Public water facilities at a ratio of one faucet for every five (5) vehicle sites.

C. Sanitary dumping stations as required by the Approving Authority.

SECTION 17.080 Certificate Required

No recreational vehicle park shall be operated in Wasco County without a certificate of sanitation provided by an agent of the Department of Human Resources, Health Division, State of Oregon, and no occupancy permit shall be issued by the Building Official until such certification is obtained pursuant to O.R.S. 446.320.

SECTION 17.090 Service Buildings

Service buildings housing sanitation facilities shall be permanent structures, complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems. Such buildings shall be maintained in a sanitary and orderly condition.

SECTION 17.100 Accommodation of Handicapped

At least one (1) service building housing sanitation facilities shall be accessible to paraplegics or persons confined to wheelchairs. The stalls of said building shall be wide enough to permit entrance and shall be provided with assist bars. Ramps shall be provided over curbs. Such buildings shall be clearly marked and signed.

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CHAPTER 18 CLUSTER DEVELOPMENT (GMA Only)

SECTION 18.010 Purpose

The purposes of the Cluster Development are to provide a means of creating harmonious planned environments through the application of flexible and diversified land development standards; to encourage the application of new development techniques and technology which will result in superior living or development arrangements; to promote the efficient use of land to facilitate more economic provision of housing, circulation systems, utilities and their maintenance; to promote energy conservation and use of renewable energy resources; to preserve to the greatest extent possible significant landscape features and to utilize such features in a harmonious fashion; and to provide for more usable and suitably located open space and recreation facilities than would otherwise be provided under conventional land development procedures.

SECTION 18.020 Definitions

The following definitions apply only to this chapter:

Gross Acreage: The acreage of the entire Cluster Development, less the acreage devoted to streets, public or semi-public buildings, kindergarten or day-care centers, and commercial uses.

Homeowners' Association: A nonprofit corporation, membership in which is mandatory for owners of Cluster Development residences, and which is responsible for maintaining common open space and private streets.

Landscape Features: Natural features of the Cluster Development site, including waterways, wetlands, rock outcroppings, forest areas and significant wildlife habitat areas.

Net Acreage: The acreage of the Cluster Development devoted to residential use, including residential building sites, private open space and driveways.

Dedicated Open Space: Undeveloped land not covered by buildings or structures, except minor recreational structures, and protected permanently. Open Space does not include streets, driveways, parking lots, or loading areas.

Common Open Space: open space reserved primarily for the leisure and recreational use of all Cluster Development residents, and owned and maintained in common by them through a homeowner's association.

Private Open Space: open space located immediately adjacent to an individual dwelling unit, owned and maintained by the owners of the dwelling unit, and reserved exclusively for the use of the residents of the dwelling unit.

Public Open Space: open space designed primarily for use by residents of a Cluster Development, dedicated in fee to a public agency, and maintained by the agency.

~~SECTION 18.030~~ ~~Cluster Development Preliminary Development Plan Approval~~

~~Approval of a Cluster Development preliminary development plan is a development request subject to 2.050(B) of this Ordinance.~~

~~A.~~ ~~An application for a Cluster Development preliminary development plan approval shall be initiated as provided in Chapter 2 of this ordinance.~~

~~B.~~ ~~The Cluster Development preliminary development plan shall consist of the following:~~

~~1.~~ ~~Written documents~~

~~a.~~ ~~A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.~~

~~b.~~ ~~The names and addresses of all owners of adjacent property.~~

~~c.~~ ~~A statement of planning objectives to be achieved by the Cluster Development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant landscape features of the site and adjacent areas, and the rationale behind the assumptions and choices made by the applicant.~~

~~d.~~ ~~A development schedule indicating the approximate date when construction of the Cluster Development or stages of the Cluster Development can be expected to begin and be completed.~~

~~e.~~ ~~A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the Cluster Development, such as land areas, dwelling units, etc.~~

~~f.~~ ~~If common open space is to be deeded to a Homeowners' Association, a declaration of covenants and restrictions that will govern the Association.~~

~~g.~~ ~~Quantitative data for the following: total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; approximate gross and net residential acreages; total amount of open space; amounts of private, common and public open space; total area and types of non-residential construction; economic feasibility studies or market analysis where necessary.~~

~~2.~~ ~~Site Plan and Supporting Maps~~

~~A site plan and any maps necessary to show the major details of the proposed Cluster Development, containing the following information in addition to that information required by 14.020(B) of this Ordinance:~~

~~a. The existing site conditions, including contours at five (5) foot intervals, water courses, floodplains and other areas subject to natural hazards, significant landscape features, and forest cover.~~

~~b. Proposed lot lines and layout design.~~

~~c. The location and floor area size of all existing and proposed buildings, structures, and other improvements, including maximum heights, types of dwelling units, and non-residential structures, including commercial facilities.~~

~~d. The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common or public open spaces or recreational areas, school sites, and similar public and semi-public uses.~~

~~e. The existing and proposed circulation system of arterial, collector, and local streets, including off-street parking areas, service areas, loading areas, and major points of access to public rights of way. Notations of proposed ownership, public or private, should be included where appropriate.~~

~~f. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatments of points of conflict.~~

~~g. The existing and proposed systems for providing sewage disposal, water, electricity, gas, fire protection and telephone services.~~

~~h. A general schematic landscape plan indicating the technique and materials to be used for private, common and public open spaces.~~

~~i. A preliminary subdivision or partition plan if the land is to be divided.~~

~~j. Information on land areas adjacent to the proposed Cluster Development, including land uses, zoning classifications, densities, circulating systems, public facilities, and significant landscape features, to show the relationships between the proposed development and the adjacent areas.~~

~~k. The proposed treatment of the perimeter of the Cluster Development, including materials and techniques to be used, such as screens, fences and walls.~~

~~3. The Approving Authority shall decide on the Cluster Development preliminary development plan application as provided in Chapter 2 of this Ordinance; and shall approve the preliminary development plan if it finds:~~

~~a. The proposed Cluster Development is consistent with applicable Comprehensive Plan and the Management Plan for the Columbia River Gorge National Scenic Area goals, policies and map designations, and with the purpose set forth in Section 18.010.~~

b. The preliminary development plan meets the development standards of Section 18.040 to Section 18.120.

c. If the preliminary development plan provides for phased development, pursuant to Section 18.130 of this chapter, that each phase meets the standard of 18.130(C) and that the applicant has the capability to obtain final development plan approval in the time limits imposed.

d. Any conditions or modifications imposed by the Approving Authority on the preliminary development plan approval are necessary to meet the requirements of Section 18.040 to Section 18.120, to further the purposes of Section 18.010, or to comply with the Comprehensive Plan or the Management Plan for the Columbia River Gorge National Scenic Area.

SECTION 18.040 Development Standards for Preliminary Development Plan

A Cluster Development preliminary development plan must meet the Development Standards in Section 18.050 through 18.120 of this Chapter.

SECTION 18.050 Minimum Site Size

The Cluster Development site must be of such a size that at least two (2) dwelling units would be permitted by the underlying district.

SECTION 18.060 Findings

Findings to justify the approval of a cluster development must demonstrate that the cluster development will provide a siting opportunity not available through conventional parcel by parcel development. These opportunities include siting the new dwellings to:

A. Be located In areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas; or

B. To avoid significant landscape features; or

C. Protect the existing character of the landscape setting; or

D. To reduce interference with movement of deer or elk in areas of inventoried winter range; or

E. To avoid areas of known cultural resources; or

F. To consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance; or

G. To reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources; or

H. To increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

SECTION 18.070 Residential Density

A. In the GMA, a cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.

B. No lot or parcel in a cluster development may be smaller than 1 acre in a 5-Acre or 10-Acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

C. In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area.

SECTION 18.080 Building Spacing

A. A preliminary development plan shall provide for reasonable light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise.

B. If the Approving Authority finds it necessary to meet the perimeter design standards of Section 18.120, it may require a special setback from all or a portion of the perimeter of the Cluster Development.

SECTION 18.090 Dedicated Open Space

A. At least seventy-five percent (75%) of the gross acreage of the Cluster Development must be dedicated open space. At least twenty-five percent (25%) of the total open space required shall be private and at least fifty percent (50%) of the total open space required shall be common or public. Not more than one-half of the common or public open space provided may be areas covered with water.

B. Locations, shapes, sizes, and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the Cluster Development. Unless the Approving Authority requires otherwise meeting the Environmental Design Standards of Section 18.100, common or public open space shall be distributed equitably throughout the Cluster Development in relation to the dwelling units of the residents they are intended to serve.

C. Dedicated open spaces shall be suitably improved for the intended use. Dedicated open spaces containing significant landscape features may be left unimproved or may be improved to assure protection of the features, subject to requirements imposed by the Approving Authority pursuant to Section 18.100.

D. The development schedule required by 18.030(B)(1)(d) shall provide for coordination of the improvement of dedicated open spaces with the construction of other proposed site improvements.

E. The Approving Authority shall require that the applicant assure the permanence of the common or public open space required by this section in one of the following ways:

1. By conveying the dedicated open space to a public agency which will agree to maintain the dedicated open space and any buildings, structures, or improvements which have been placed on it; or

2. By conveying the dedicated open space to a Homeowners' Association, subject to covenants running with the land which restrict the common open space to the uses specified in the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

F. If the common open space is to be deeded to a Homeowners' Association, the declaration of covenants and restrictions required by 18.030(B)(1)(f) shall include the following:

1. The Homeowners' Association must be set up before the homes are sold. Prior to such sale, the property owner assumes the responsibility of that share attributable to each unsold home defined in the Homeowners' Association.

2. Membership must be mandatory for each home buyer and any successive buyer.

3. The dedicated open space restrictions must be permanent, not just for a period of years.

4. The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.

5. Residence owners must pay their pro rata share of the cost. The assessment levied by the Association can become a lien on their property.

6. The association must be able to adjust the assessment to meet changed needs.

G. If the common open space is to be deeded to a Homeowners' Association, the Approving Authority shall require that one of the following enforcement methods be provided by the applicant:

1. Conveyance to the County of the legal right to develop the common open space for uses not specified in the final development plan; or

2. Inclusion in the conveyance of the common open space, a condition that the fee title of the common open space shall vest in the County in the event of a substantial default in the conditions and restrictions governing the use and maintenance of the common open spaces; or

3. Inclusion in the conveyance of the common open space a condition that, in the event a common open space is permitted to deteriorate or is not used and maintained consistently with the final development plan, the County may, at its own option, cause such maintenance to be done and assess the cost to members of the association.

~~SECTION 18.100 Environmental Design Standards~~

~~A.~~ ~~The preliminary development plan shall provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites, and landmarks and for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The Approving Authority may require that significant landscape features and historical sites be preserved as part of the common or public open space of the project.~~

~~B.~~ ~~Excessive site clearing of topsoil, trees and natural features before the commencement of construction operations shall be discouraged. The Approving Authority may require the applicant to submit a grading plan detailing proposed excavation, earth-moving procedures, and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space.~~

~~C.~~ ~~Sites for residential and non-residential buildings shall be discouraged in areas of natural hazards, such as floodplains, areas subject to landslides, areas with average slopes greater than twenty five percent (25%) and areas with unstable soil formations. The Approving Authority shall require that all floodplains be preserved as permanent common or public open space, and may require that other natural hazard areas be included in the common or public open space of the proposed development and be left unimproved or improved to assure minimization of the hazard.~~

~~D.~~ ~~All manufactured slopes, other than those constructed in rock, shall be planted or otherwise protected from the effects of storm runoff erosion, and shall be of a character to cause the slope to blend with the surrounding terrain and development. The applicant shall provide for maintenance of the planting until growth is established.~~

~~E.~~ ~~The preliminary development plan shall promote the conservation of energy and use of solar or other renewable energy resources through such factors as the location and extent of site improvements, the orientation and exposure of buildings and usable open spaces, the types of buildings, and the selection of building materials.~~

~~SECTION 18.110 Traffic Circulation~~

~~The location and number of points of access to the site, the interior circulation pattern of streets and pedestrian ways, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings and uses.~~

~~SECTION 18.120 Perimeter Design~~

~~A.~~ ~~The preliminary development plan shall minimize adverse impacts of proposed uses and structures in the Cluster Development on existing and anticipated uses and structures in the adjacent area.~~

~~B.~~ ~~If topographical or other barriers do not provide reasonable privacy for existing uses adjacent to the development, the Approving Authority shall require one or more of the following:~~

1. A special setback, or setbacks, of residential and non-residential structures shall be located on the perimeter.

2. Residential and non-residential structures located on the perimeter of the development shall be screened by fencing, landscaping, or other natural or man-made materials.

SECTION 18.130 Development Phasing

A. The applicant may provide in the preliminary development plan for development of the project in up to three (3) phases.

B. In acting to approve the preliminary development plan, the Approving Authority may require that development be completed in up to three (3) specific phases, if it finds that public facilities would not otherwise be adequate to serve the entire development.

C. If the preliminary development plan provides for phased development, each phase shall provide for the same ratio of open space and/or recreational facilities to dwelling units as the over-all project.

D. The following time limitations shall be observed in phased development proposals:

1. Phase 1--final development plan must be approved within twelve (12) months of the date of preliminary plan approval.

2. Phase 2--final development plan must be approved within twenty four (24) months of the date of preliminary plan approval.

3. Phase 3--final development plan must be approved within thirty-six (36) months of the date of preliminary plan approval.

SECTION 18.140 Duration of Cluster Development Preliminary Development Plan Approval

A. Approval of the preliminary development plan shall be valid for twelve (12) months from the date of approval, provided that if an approved preliminary development plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the time limitations of 18.130(D).

B. If any time limit for obtaining final development plan approval is exceeded, the approved preliminary development plan, or phase of the preliminary development plan and any subsequent phase, shall be void. Any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new development request.

SECTION 18.150 Cluster Development Final Development Plan Approval

Approval of a Cluster Development final development plan is subject to 2.050(B) of this Ordinance.

A. Within twelve (12) months of the date of approval of the preliminary development plan, unless otherwise specified pursuant to Section 18.130, the applicant shall submit a final development plan, prepared by an Oregon registered engineer, and supporting documents to the Director.

B. The final development plan shall include:

1. The site plan and maps submitted pursuant to 18.030(B)(2) in their final, detailed form, and including reasonable assurance that an adequate, potable, year-round water supply is available for the development.

2. The documents submitted pursuant to 18.030(B)(1) amended to incorporate any conditions imposed on the preliminary development plan approval.

3. Final subdivision plat or partition map, if the land is to be divided.

4. Except as permitted by the Approving Authority pursuant to (F) of this section, documents conveying common open space to a Homeowners' Association, including the restrictive covenants and conditions required by 18.090(E) to (G).

5. Articles of Incorporation of the Homeowners' Association formed to maintain common open space and other common improvements.

C. The Director shall require the applicant to enter into an agreement with the County to complete all improvements required by the final development plan according to a schedule set forth in the agreement.

D. Agreement for Improvements:

1. Before approval of the final development plan, the applicant shall either install the improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the Cluster Development, or shall execute and file with the Court an agreement between himself/herself and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide for the construction of the required improvements in phases. The agreement shall provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.

2. An applicant may request an extension of time for completion of required improvements. Such request will be considered an application for Administrative Action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him/her to fulfill the agreement within the original time limit(s).

E. Performance Bond:

1. To assure full performance of the improvement agreement, an applicant shall file one of the following:

a. A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the District Attorney; or

b. Cash deposit with the County Treasurer; or

c. Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the County Board of Commissioners. The bank certification or letter of assurance shall be approved by the District Attorney; or

d. Cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the County Board of Commissioners. Escrow instructions shall be approved by the District Attorney.

2. Such assurance of full and faithful performance shall be for a sum determined by the County Board of Commissioners to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final plan, including related engineering, and may include an additional percentage as determined by the County Roadmaster to cover any inflationary costs which may be incurred during the construction period prior to the full and final completion of the project.

3. If the applicant fails to carry out provisions of the improvement agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.

F. Action by the Approving Authority:

The Approving Authority shall take action on the application for final approval in accordance with the procedures outlined in Chapter 2 of this Ordinance, and shall approve the final development plan if:

1. The applicant has submitted all information and documents required pursuant to (B), (C) and (D) of this section; and

2. The final development plan is in substantial compliance with the approved preliminary development plan and any conditions imposed by the Approving Authority. Substantial compliance means that any differences between the final and preliminary plan are "minor amendments" as defined in 18.170(A)(1).

G. Recording a Final Development Plans:

The approved final development plan shall be recorded in the County Clerk's office within thirty (30) days of the date of approval.

SECTION 18.160 Expiration of Final Development Plan Approval

A. If the Director determines that no substantial construction or development has occurred within two (2) years of the date of approval of the final development plan for a Cluster Development, or for a phase thereof, the Director shall initiate an Administrative Action to consider invalidating the final development plan approval.

B. The Approving Authority shall invalidate such final development plan approval unless it determines that the applicant was not responsible for the failure to complete substantial construction, and that the applicant will be able to complete the development within two (2) years.

C. If final development approval is invalidated, any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new application for preliminary development plan approval.

SECTION 18.170 Amendments to Approved Preliminary and Final Development Plans

A. Definitions:

1. "Minor Amendment" means a change which:

a. Does not increase residential densities;

b. Does not enlarge the boundaries of the approved plan;

c. Does not change any use;

d. Does not change the general location or amount of land devoted to a specific land use, including open space;

e. Does not eliminate the preservation of a significant landscape feature; and

f. Includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements, or common or public open spaces.

2. "Major Amendment" is any change which does not meet the definition of a "Minor Amendment".

B. A minor amendment to an approved preliminary or final development plan may be approved ministerially by the Director.

C. A major amendment to an approved preliminary or final development plan shall be considered a new development request subject to the provisions of Chapter 2 of this ordinance.

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CHAPTER 19— STANDARDS FOR A NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEM (WECS) ACCESSORY TO PERMITTED USES

SECTION 19.010– Purpose

This chapter describes how to apply for county approval of a proposed non-commercial WECS accessory to a permitted use and its associated transmission lines as specified in designated zones.

SECTION 19.020– Review Criteria and Conditions

In addition to the applicable criteria listed in Chapter 3 and Chapter 14, a non-commercial WECS and its associated transmission lines may be permitted in the designation zones subject to the following additional criteria and conditions:

A. Accessory Use.— The applicant(s) shall demonstrate how the WECS is accessory to another permitted use on the subject tract. – **Free standing equipment is a new accessory structure, equipment attached to an existing structure is an addition ~~et~~of the structure on which it is located.**

B. Size Limitation.— The production of energy shall not exceed the needs of the use on the tract.— The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of WECS match this.– No more than two WECS shall be allowed on the same tract.– Net-metering may be allowed,.— **Sale of power back to the electrical grid is permitted, provided that it is an occasional event, not ongoing over the course of the year.** ~~however, no energy may be sold for profit.~~

C. Height.

1. Maximum– Height.– The total WECS height shall not exceed 200 feet.

2. Minimum Height. The lowest point in the sweep of a WECS blade shall be a minimum height above the tallest current or foreseeable obstruction within a horizontal, 500 foot radius of a WECS or a radius of 10 rotor diameters (for horizontal axis) and 5 WECS heights (for vertical axis), whichever is greater, as described in (a), (b), and (c) below.– The radius shall be measured from the center point of the tower.

a. At least 30 feet for a horizontal axis WECS on a site without site-specific wind direction data or representative off-site data.

b. At least 30 feet above current or foreseeable obstructions within 45 degrees of the direction(s) of prevailing wind for a horizontal axis WECS on a site with site-specific wind direction data or representative off-site data.

c. At least six feet for a vertical axis WECS.

D. Setbacks.

1. A WECS shall be setback from all adjoining property lines as described in (a) and (b) below.— An

easement that complies with ORS 105.900 through 105.915 may be substituted for required setbacks. The setback shall be measured from the center point of the tower or pedestal.

a. A horizontal axis WECS shall be setback at least five rotor diameters.

b. A vertical WECS shall be setback the total WECS height.

2. The furthest horizontal extension of a WECS (including guy wires) shall not extend into yards required in the underlying zones or be closer than twelve feet to any major structure, or right-of-way or easement for above-ground telephone, electrical transmission and distribution lines.

E. Notice. The following signs shall be clearly visible on the WECS tower and accessory facilities.

1. "No Trespassing" signs shall be attached to any perimeter fence.

2. "Danger" signs shall be posted at the height of five feet on WECS towers and accessory structures.

3. A sign shall be posted on the tower showing an emergency telephone number.

4. The manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled.

F. Public Access. Public access to a vertical axis WECS shall be limited. Public access to a horizontal axis WECS shall be limited using one or a combination of the following methods:

1. Removal of tower climbing fixtures to 12 feet from the ground,

2. Installation of a locking, anti-climb device on the tower, or

3. Installation of a protective fence at least six feet tall with a locking gate.

G. Air Safety. The Oregon Department of Aviation, Federal Aviation Administration, and local aerial sprayers shall be notified of the WECS. The WECS shall comply with the air hazard rules based on a written action by those agencies.

H. Grounding. All WECS which may be charged with lightning shall be grounded according to the Oregon State Electrical Specialty Code.

I. Electrical Safety. Transmission lines associated with the facility shall not generate an electrical field greater than 9 kV per meter measured at grade and shall comply with the National Electrical Safety Code, based on a written decision by the Public Utility Commissioner.

J. Noise. Construction and operation of the proposed WECS shall comply with the noise regulations of the Oregon Department of Environmental Quality (DEQ) in OAR 340-35, based on a written decision by DEQ. In addition, the application shall identify noise sensitive property(ies) and ambient noise levels prior to construction.

K. Communications.— The proposed WECS shall not unduly reduce or interfere with electromagnetic communication signals.– If undue reduction or interference occurs, the applicant shall return reception levels to pre-facility levels.

L. Coordination:– The applicant shall demonstrate that all necessary state and federal permits, licenses, exemptions, variances, or authority are approved before initiating construction of the WECS.

M. Removal:— An abandoned WECS shall be removed by the owner of the subject tract, or by Wasco County at the owner's expense, if after notice of abandonment by Wasco County, the WECS does not resume production of electricity within 6 months.

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CHAPTER 20– HOME OCCUPATIONS, ~~COTTAGE INDUSTRIES,~~ BED & BREAKFAST INNS, COMMERCIAL EVENTS AND SPECIAL USES IN HISTORIC BULDINGS

SECTION 20.100– Home Occupations ~~and Cottage Industries~~ (GMA & SMA)

Home occupations ~~and cottage industries~~ may be established as authorized in specified land use designations and consistent with the following.

A. A home occupation may employ only residents of the home.

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

C. There will be no interference with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

D. There will be an annual review by the Approving Authority.– The approval shall continue if the home occupation or cottage industry continues to comply with the requirements of this Subsection and all conditions of approval.

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

F. No more than five hundred (500) square feet of an accessory structure may be utilized for a home occupation or cottage industry.

G. There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

H. Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted.– New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

I. No retail sales may occur on the premises except incidental sales at lodging establishments authorized in this chapter.

J. One (1) small, non-animated, non-illuminated sign, not exceeding two (2) square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

K. Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

SECTION 20.200– Bed and Breakfast Inns (GMA & SMA)

Bed and Breakfast Inns may be permitted in a lawfully established single family dwelling as authorized in

specified zoning designations and consistent with the following:

A. Residential zones (GMA & SMA)

1. Bed and Breakfast Inns with up to two (2) bedrooms may be permitted in all residential zones.

2. Bed and Breakfast Inns with between three (3) and five (5) bedrooms may only be permitted in R-R(5) and R-R(10) and SMA Residential zones.

B. Agricultural and Forest zones (GMA & SMA)

1. Bed and Breakfast Inns with up to two (2) bedrooms may be permitted in specified agricultural and forest zones.

2. Bed and Breakfast Inns with between three (3) and five (5) bedrooms may only be permitted in specified agricultural and forest zones when the dwelling is listed or is eligible to be listed on the National Register of Historic Places or, identified and protected under local landmark status as approved pursuant to Oregon State land use regulations protecting historic structures.

3. The owners or operators of the bed and breakfast inn shall post an 8 1/2" x 11" "NOTICE" that will be located in a conspicuous location inside the bed and breakfast inn. Such "NOTICE" shall generally state:

a. In large, one (1) inch tall lettering at the top of the page, "N-O-T-I-C-E"; and

b. That the bed and breakfast inn is located in an agricultural or forest area; and

c. That guests should use care when out of doors to avoid injury by adjacent and nearby agricultural or forest operations; and

d. That adjacent and nearby agricultural or forest operations may from time to time cause noise, odor and sights that are associated with agricultural or forest operations.

e. That guests should be aware that adjacent and nearby operators are entitled to carry on accepted agricultural or forest practices on lands designated Agricultural or Forest.

4. Buffer zones should be considered to protect agricultural practices from conflicting uses (SMA Only).

5. The Bed and Breakfast shall be compatible with agricultural use. (SMA Only)

C. In the Public Recreation zone Bed and Breakfast Inns with up to five (5) bedrooms may be permitted in the SMA only.

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

E. One (1) non-animated, non-illuminated sign, not exceeding four (4) square feet in area, may be authorized on the structure or within the yard containing the facility;

F. Parking areas shall be screened so as to not be visible from Key Viewing Areas.

G. No retail sales may occur on the premises except incidental sales to the bed and breakfast operation.

H. In the SMA, Bed and breakfast inns shall be allowed only in dwellings that are included in, or eligible for inclusion in, the National Register of Historic Places.

I. In addition to the criteria above, all proposed Bed and Breakfast Inn with up to two (2) bedrooms shall meet A, E, F, G, H, J and K in Section 20.100.

Section 20.300 Commercial Events (GMA Only)

Commercial events include weddings, receptions, **indoor concerts, farm dinners, or events similar in size and activity and must be** ~~parties and other small-scale gatherings that are~~ incidental and subordinate to the primary use on a parcel and may be allowed except on lands designated Open Space, Industrial Forest, or Agriculture Special, subject to compliance with the following:

A. The use must be in conjunction with a lawful**, on-site** ~~winery,~~ wine sales/tasting room, bed & breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the provisions of Section 20.400 and not this Section.

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

C. A single commercial event shall host no more than 100 guests.

D. The use shall comply with the following parking requirements:

1. A single commercial event shall include no more than 50 vehicles for guests.

2. All parking shall occur on the subject parcel.

3. At least 200 square feet of parking space shall be required for each vehicle.

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

5. All parking areas shall be fully screened from Key Viewing Areas.

E. The owner of the subject parcel may conduct 18 single events up to one day in length per year.

F. The owner of the subject parcel shall notify Wasco County and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

G. Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from Key Viewing Areas.

H. To protect any nearby agricultural and forest operations the use may be allowed upon demonstration that it would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in "Agricultural Buffer Zones," or designated Commercial Forest Land or Large or Small Woodland, as required in the "Siting of Dwellings on Forest Land" in Chapter 3 of this Ordinance.

I. Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

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

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

Section 20.400 Special Uses in Historic Buildings (GMA Only)

A. Special uses in historic buildings may be allowed as authorized in specified land use designations subject to the provisions of Section 20.400(B), Chapter 5, Chapter 14, as well as any other listed or referenced provisions.

1. For the purposes of this section, the term “historic buildings” refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to B(1)(a) below.

2. The following review uses may be allowed on parcels with building(s) included on the National Register of Historic Places:

a. Public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property. Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner. Criteria B(1)(a) and B(1)(b)(3) & (4) below and the parking limits and associated “Facility Design Guidelines” in the Recreation

Intensity Classes are not applicable to this use.

b. Former restaurants and/or inns shall be permitted to re-establish these former uses.– The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.– Criteria B(1)(a) and B(1)(b)(3) & (4) below are not applicable to this use.

c. Commercial events in the building or on the subject parcel. Criterion B(1)(a) below is not applicable to this use.

3. The following additional review uses may be allowed on parcels with building(s) either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006:

a. Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date.– Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.

b. Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.

c. Commercial events in the building or on the subject property.

d. Wineries **and cideries** upon a showing that processing of wine **or cider** is from **fruits harvested** ~~grapes grown~~ on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

e. Sales/tasting rooms in conjunction with an on-site winery **or cidery**, within a historic building, as the building existed as of January 1, 2006.

f. Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.

g. Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

h. Gift shops within a historic building, as the building existed as of January 1, 2006 that are:

(1) incidental and subordinate to another approved use included in A(3) above; and

(2) no larger than 100 square feet in area.

i. Interpretive displays, picnic areas or other recreational day use activities on the subject parcel.— The parking limits and associated "Facility Design Guidelines" in the Recreation Intensity Classes are not applicable to this use.

j. Parking areas on the subject property to support any of the above uses.

4. Land use approvals for special uses in historic buildings shall be subject to review by Wasco County every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to Wasco County on the progress made in implementing the "Protection and Enhancement Plan" required in B(1) below. Wasco County shall submit a copy of the applicant's documentation to the State Historic Preservation Office (SHPO). SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to Wasco County. If Wasco County's determination contradicts comments from the SHPO, Wasco County shall justify how it reached an opposing conclusion.— Wasco County shall revoke the land use approval if the owner has failed to implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan. Wasco County may, however, allow such a use to continue for up to one additional year from the date Wasco County determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

5. Commercial events allowed in this section are not subject to the provisions of Section 20.300. Commercial events allowed in this section are subject to the following:

a. Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

b. The owner of the parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

c. Applications for commercial events shall include all information in the "Operational Plan for Commercial Events" as specified in B(1)(b)(4) below.

B. Additional Resource Protection Provisions for Special Uses in Historic Buildings.

1. Cultural Resources

a. All applications for uses listed in A(3) above, shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for

buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports", Section 14.500(M). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by Wasco County based on input from SHPO. Wasco County shall submit a copy of any historic survey and evaluation of eligibility to SHPO. SHPO shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to Wasco County. If Wasco County's determination contradicts comments from SHPO, Wasco County shall justify how it reached an opposing conclusion.

b. Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:

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

(2) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

(3) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(4) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

(a) Number of events to be held annually.

(b) Maximum size of events, including number of guests and vehicles at proposed parking area.

(c) Provision for temporary structures, including location and type of structures anticipated.

(d) How the proposed commercial events will contribute to protection and enhancement of the historic resource.

c. Wasco County shall submit a copy of the "Protection and Enhancement Plan" to the SHPO. SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to Wasco County. SHPO's comments shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.

d. Any alterations to the building or surrounding area associated with the proposed use have been determined by Wasco County to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If Wasco County's final decision contradicts the comments submitted by SHPO, Wasco County shall justify how it reached an opposing conclusion.

e. The proposed use has been determined by Wasco County to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If Wasco County's final decision contradicts the comments submitted by SHPO, Wasco County shall justify how it reached an opposing conclusion.

2. Scenic Resources

a. New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.

b. New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordinance. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.

c. Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

3. Recreation Resources

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

4. Agricultural and Forest Lands

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

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CHAPTER 21– LAND DIVISIONS

As authorized by law, including ORS Chapters 92, 197, and 215, subdivisions, partitions plats, replats, property line adjustments and streets shall be approved in accordance with this Chapter and applicable provisions of Chapter 3 - Basic Provisions, and Chapter 14 - Scenic Area Review.– The Chapter applies to all land within the unincorporated territory of the Columbia River Gorge National Scenic Area portion of the County.– A person desiring to subdivide, partition, replat, adjust a common boundary line, or to create a street or a private road shall submit preliminary plans and final documents for approval as provided in this Chapter and state statutes.– Land divisions in the Special Management Area shall not be allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.

SECTION 21.010– Purpose

In accordance with the provisions of ORS Chapters 92, 197, and 215
, this Ordinance sets forth the minimum standards governing the approval of land development, including subdivisions, partitions, replats, and property line adjustments, as necessary to carry out the Wasco County Comprehensive Plan and the Management Plan for the Columbia River Gorge National Scenic Area and to promote the public health, safety and general welfare.– The purpose of these provisions and regulations are to:

A. Encourage well planned development to the end that good livable neighborhoods with all needed amenities and community facilities may be created.

B. Encourage development in harmony with the natural environment and within resource carrying capacities.

C. Safeguard the interest of the public, the applicant, and the future legal parcel owner.

D. Improve land records and boundary monumentation.

E. Ensure equitable processing of plats and plans, and accomplish to the greatest extent possible the goals and objectives of the Comprehensive Plan for Wasco County and the Management Plan for the Columbia River Gorge National Scenic Area.

SECTION 21.020– Definitions

The definitions set forth in Section 1.200 of this Ordinance shall be utilized for the purposes of this chapter.

SECTION 21.030– Basic Provisions and Design Standards

A. Compliance required: No land within the unincorporated territory of the Columbia River Gorge National Scenic Area portion of Wasco County shall be subdivided or partitioned, and no plat shall be filed or recorded until submitted to and approved by the Approving Authority in accordance with ORS Chapter 92.

B. Minimum standards:– The requirements and standards set forth in this chapter are the minimum ones to which a subdivision, partition, or boundary adjustment must conform before approval by the Approving Authority.– Scenic, Natural, Cultural and Recreational resource buffers set forth in Chapter 14 - Scenic Area Review shall not be altered or varied to allow design standards to be met.

C. Conformity with the plan:– All divisions of land and boundary adjustments shall conform to and be in harmony with the Wasco County Comprehensive Plan and National Scenic Area Land Use Designation Map and the Management Plan for the Columbia River Gorge National Scenic Area and map of that portion of the Columbia River Gorge National Scenic Area within which the subdivision and partition lies.

D. Conformity with zoning chapter:– All divisions of land and boundary adjustments, regardless of the number of lots or parcels, shall comply with all specifications authorized by Chapter 3 of this Ordinance. All lots created shall conform in all respects with the applicable regulations of Chapter 3, including uses of land, lot size and dimensions, space for off-street parking, landscaping and other requirements as may be set forth.– Variances from minimum parcel sizes shall not be granted.

Land divisions shall also be made only in full compliance with standards set in Chapter 14 - Scenic Area Review.

E. Relation to Adjoining Street System:– A subdivision or partition shall provide for the continuation of the principal streets existing in the adjoining subdivisions or of their proper projection when the adjoining property is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in these regulations.

F. Redevelopment Plan:

1. In subdividing or partitioning tracts of land into large lots which at some future time could be further divided, the Director may require that blocks and lots shall be of such size and shape, be so divided into lots, and meet such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of a smaller size which shall have the minimum lot frontage on a street.

2. No lot in a platted subdivision shall be reduced in size from that shown on the recorded plat if the newly created lot will have less than the minimum lot area for the zone in which it is located.

3. Any lot in a platted subdivision may be enlarged to approximate more closely the minimum lot area for the zone in which the lot is located, provided that no leftover lot areas shall be less than the minimum lot area for the zone.

4. Any person dividing tracts of land into large lots which at some future time could be further divided and still meet the minimum lot size requirement of the zone in which the land is located shall provide suitable road access to each created parcel so that the future development of each parcel will provide access for redevelopment parcels or lots.

G. Access:– A unit of land shall be considered to have access by way of a public road or street, private

road, or private easement road, if the following criteria are satisfied:

1. The unit of land abuts on the road or street.

2. There is a legal right appurtenant to the unit of land to use the road or street for ingress and egress. A legal right to use a private road or private easement road may be evidenced by: (a) an express grant or reservation of an easement in a document recorded with the County Clerk; (b) a decree or judgment issued by a court of competent jurisdiction; (c) an order of the County Governing Body; or, (d) an express easement set forth in a duly recorded plat.

3. The road or street provides actual physical access for the unit of land.

H. Access Requirements for Land Divisions:– Each unit of land shall be provided with access by a public road meeting standards noted in Table 1 (Rural Public Roadway Design Standards) & 2 (Urban Public Roadway Design Standards), except as provided below and in Table 3 (Private Access Standards):

1. Private Easement Road — In all zones a unit of land may have access by way of a private easement road upon a finding that such road provides access for not more than three (3) units of land and serves not more than three (3) units of land.

The requirements of Section 21.300 are not applicable to a Private Easement Road.

If the private easement road could provide access for more than three (3) units of land based on existing zoning, structural setbacks shall be established from the potential right of way of the public or private road and not the right of way of the private easement road.

2. Private Road — In resource areas only (areas zoned F-1, F-3, A-1 and A-2), a unit of land may have access by way of a private road upon findings of the Approving Authority that:

a. Such private road provides access for not more than ten (10) units of land and serves not more than ten (10) units of land;

b. Private road approval is obtained pursuant to Section 21.400;

c. Private road is constructed to standards of Section 21.430 when more than three (3) units of land use roadway;

d. The primary use of the road is to provide access for resource activities.– Conflicting uses shall be minimized;

e. When service to more than ten (10) units of land is possible, provision shall be made to serve the area by public road, including but not limited to: (a) dedication of right-of-way; (b) extension and improvement of the roadway to public road standards such that not more than ten (10) units of land may be served.

If the private road could provide access for more than ten (10) units of land based on existing

zoning, structural setbacks shall be established from the potential right of way of the public road and not the right of way of the private road.

I. Alignment:– As far as practical, streets shall be in alignment with existing streets by continuations of the center lines thereof.– Staggered street alignment resulting in "T" intersections shall wherever practical leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than one hundred twenty-five (125) feet.

J. Half Streets:— Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the requirements of this Ordinance and when possible to require the dedication of the other half when the adjoining property is subdivided.— Whenever an existing half street is adjacent to land to be subdivided, the remaining half of the street shall be dedicated within such subdivision.– Reserve strips and street plugs may be required to insure the objectives of obtaining full width streets.

K. Streets Adjacent to Railroads, Freeways and Parkways:– When a subdivision or partition contains or is adjacent to a railroad, a parallel street may be required on each side of such railroad.– A land strip of not less than twenty-five (25) feet in width shall be provided along a railroad right-of-way for screen planting or park purposes between the railroad and residential lots.– Parallel, local service streets shall be provided on each side of a freeway or parkway either within or abutting their right-of-way.– When such parallel streets are less than eighty (80) feet from such freeway or parkway the intervening property shall be used for only park or thoroughfare purposes.– Streets paralleling railroads, at those cross streets where grade separations are proposed, shall be located at a distance from the railroad that provides for such grade separation structure.

L. Existing Streets:— Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision or partitioning.

M. Future Extension of Streets:— Where necessary to give access to or permit a satisfactory future subdivision or partitioning of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a turnaround. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

N. Alleys:– The minimum width of alleys, when provided in residential blocks, shall be twenty (20) feet. Alleys shall be provided in commercial and industrial districts and shall not be less than twenty (20) feet in width.– The corners of all alleys at their intersection with streets and other alleys shall be rounded and have a radius of not less than ten (10) feet.

O. Pedestrian Ways:– When desirable for public convenience, pedestrian ways may be required to connect to cul-de-sacs or to pass through unusually long or oddly shaped blocks.

P. Cul-De-Sacs:— In general, dead-end (cul-de-sac) streets are not desirable, but if provided, shall terminate in a turnaround that is consistent with Chapter 11 and the local fire department.

Q. Street Intersections:

1. All streets shall intersect at right angles (90 degrees) one to the other; where an intersection at ninety (90) degrees cannot be secured by reason of physical conditions of the site an angular intersection of not less than sixty (60) degrees may be permitted.

2. Property corners at street intersections shall be rounded and with a radius of not less than ten (10) feet.

3. Major thoroughfares intersections shall have roadway curb radii of not less than twenty-five (25) feet; all other street intersections shall have roadway curb radii of not less than twenty (20) feet.

R. Reserve Strips:— Reserve strips or street plugs dedicated to the County and controlling the access to a street may be approved or required when necessary to:

1. Prevent access to the street on a side where additional width is required to meet the minimum right-of-way standards;

2. Prevent access to abutting property at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street; or

3. Prevent the uncontrolled development of land.

S. Marginal Access Streets:— Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Approving Authority may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

T. Utility Lines:— Easements for sewers, water mains, electrical lines, or other public utilities shall be dedicated whenever necessary.– The easements shall be at least twelve (12) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six feet in width.

U. Water Courses:– If a subdivision or partition plat is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose.– Streets or parkways parallel to major water courses may be required.

V. Environmental Hazards:— If a subdivision or partition contains known hazards resulting from potential for flooding, land movement, high water tables, erosion, or similar natural phenomena, the Approving Authority may require dedication of protective easements for uses that would minimize aggravation of the environmental hazard.

W. Blocks:— No block shall exceed twelve hundred (1200) feet in length between streets.— In blocks over eight hundred (800) feet in length there shall be a cross walkway of not less than ten (10) feet in width, near the middle of the block.— The width of blocks shall be such as to allow two tiers of lots, except where in the opinion of the Approving Authority a relatively short length of double frontage lots are

unavoidable.

X. Lots:

1. Lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the types of use permitted. Lot dimensions shall not include part of existing or proposed streets. All lots shall be buildable, except a public utility lot. Depth and width of utility lots shall be adequate to provide for standard setbacks for service structures, and to furnish off-street parking facilities required by the kind of use contemplated. In no other case shall the width or area be less than that prescribed for the zone in which the lot is proposed.

2. Each side lot line shall be at right angles to the adjacent street line or radial to a curved street line, unless the Approving Authority determines that variation from these requirements is necessitated by unusual circumstances such as topography and site location.

3. Lots with double frontage shall be avoided, except where the Approving Authority determines that such lots are essential to provide separation or residential development from major traffic arterials or adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten (10) feet wide, across which there shall be no rights of access, may be required along the line of lots abutting such a traffic arterial or other incompatible use. Such area shall be considered the rear portion of the lot.

4. Flag lots shall not be permitted, except when unusual circumstances exist. Such circumstances may include characteristics of topography and site which affect construction on the property or access to the property. Approval of the creation of flag lots by the Approving Authority shall be based on specific findings indicating what unusual circumstances exist.

Y. Public Open Space: School sites, neighborhood playgrounds, parks and recreation areas shall be located in accordance to the development pattern of the County or the County area. When such public school or recreation sites are within the area of an approved subdivision they may be dedicated to the County or shall be reserved until such time as the County is able to acquire them. Parks and recreation areas shall be provided at the rate of one (1) acre of recreation area to every one hundred people.

Z. Subdivision Name: The name of any subdivision shall not duplicate or be so similar as to be confused with the name of any existing subdivision or parcel or area within the County.

AA. Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and, if near a city, to the pattern in the city, and shall be subject to the approval of the Approving Authority.

BB. Street Signs: All street and highway signs shall meet the County standards for such signs.

SECTION 21.100 Land Partitioning Approval

A. Approval of Preliminary Partition Plans:

1. An application for preliminary partition plan approval shall be initiated as provided in Chapter 2.

2. In addition to the complete application requirements for Chapter 14 - Scenic Area Review, a preliminary partition application, plan and supporting documentation shall include the following:

a. a vicinity map of such scale to clearly locate the proposed partitioning in relation to adjacent subdivisions, partitions, roadways and other land parcels;

b. any existing permanent structures and their setbacks to existing and proposed property lines;

c. all existing and proposed means of utilities for each tract including but not limited to water, primary and secondary septic drain fields, sewer lines, telephone lines, and electrical lines;

d. predominant topographical features such as bluffs and rock outcroppings;

e. areas subject to sliding or other natural hazards;

f. areas subject to flooding and all water courses and their directional flows, including marshes and wetlands;

g. north point, scale and date;

h. zoning classification and plan map designation of the land;

i. a plan of the proposed partitioning, showing boundaries of the total contiguous ownership, boundaries of each proposed tract, the number assigned to each tract, acreage of each tract and location and name of existing and proposed streets and roads;

j. all existing and proposed public and private easements, restrictions, and covenants providing for, or affecting all services, utilities, or access must be shown on the face of the map along with the legal description. If it is a pre-existing easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorder's number shall appear on the face of the map; and

k. if not sewered and located in an "F-1", "F-3", "A-1" or "A-2" zone, a statement signed by an authorized representative of the Department of Environmental Quality, State of Oregon, or County Sanitarian regarding the suitability of each parcel to be partitioned for subsurface sewage disposal; or a signed statement shown on the face of the final partition plan that no investigation has been made of the suitability of any given parcel by an authorized representative of the Department of Environmental Quality, and that no warranty is made that any parcel will be usable for subsurface sewage disposal; or

l. if not sewered and located in an "RR" or "PR" zone, a statement signed by an authorized representative of the Department of Environmental Quality approving each parcel to be

partitioned for subsurface sewage disposal; or a statement signed by the County Sanitarian or an officer of a public sewer district or corporation warranting the availability of sewer hook-ups for each parcel to be partitioned.

3. Standards for approval of a preliminary partition plan.

a. A decision on a preliminary partition plan application shall be made by the Approving Authority as provided in Chapter 2 of this Ordinance.

b. The preliminary partition plan shall be approved if the Approving Authority finds that the information required by this subsection has been provided, if the proposal complies with Chapter 3 - Basic Provisions, and Chapter 14 - Scenic Area Review, and if the standards of Section 21.030 have been met.

4. The Approving Authority may require dedication or reservation of land and utility or drainage easements; and may impose conditions promoting redevelopment of the parcels if, in view of the zoning and plan map designation, the acreage of a parcel or parcels in contiguous ownership make additional partitioning of the subject property feasible.

B. Approval of Final Partition Plat:

1. Within twenty four (24) months from the date of preliminary partition approval, the applicant shall initiate a request for final partition plat approval by filing with the Director a final plat prepared in accordance to those standards in this section.

2. The approval of a final partition map by the Director is a ministerial action. The Director shall grant final approval if he determines that:

a. the final plat and any supporting documents are in substantial conformance with the approved preliminary partition plan;

b. any conditions imposed by the Approving Authority have been met;

Substantial conformance means that any differences between the preliminary and final plans are "minor amendments", as defined in Section 21.110 that clearly will not adversely affect scenic, natural, cultural or recreational resources.

3. All access easements created as part of land partitioning become effective when the plat is recorded by the County Clerk If an access easement is pre-existing or if the access easement has been recorded with the County Clerk prior to the final approval of the land partition, then the recorded Document Number shall appear on the face of the plat.

4. The granting of final plat approval shall not be affected by a change in the zone or plan map designation of the subject property made after approval of the preliminary partition plat.

5. After approval of the final partition plat, the Director, County Surveyor, Assessor/Tax Collector, and

Clerk shall endorse their approval on the original plat. The original plat shall be recorded with the County Clerk and a copy with the County Surveyor's Office.

6. Pursuant to ORS 92.055 a parcel larger than ten (10) acres is not required to be surveyed and monumented but shall comply with the following:

a. The approximate acreage of each unsurveyed parcel shall be shown.

b. Any unsurveyed parcel shall have the word "unsurveyed" placed in bold letters adjacent to the parcel number on the plat at provided in (5) above.

c. Unsurveyed parcels need not comply with ORS 92.050(5), (7) and (8).

7. Pursuant to ORS 92.095, prior to recordation of the final partition map, the current years' taxes must be paid in full.– (The tax year runs from July 1st through June 30th).

C. Final Land Partition Plat Requirements:

1. Conformance to preliminary plan.– The map shall substantially conform to the preliminary plan as approved.

2. Preparation of the Plat.

a. A plat shall be prepared on 4 mill (minimum) double matte polyester film, approved by the County Surveyor, on a standard 18" x 24" sheet, with archival permanent black ink, in a format available at the Wasco County Surveyors Office.

b. All signatures on the original must be in archival quality black ink.

c. The lettering shall be a size or type to be clearly legible when copies are made.

d. A face sheet an index must be included for a plat with 3 or more sheets.

3. Compliance with ORS 209.250.– A plat shall comply with all requirements of ORS 209.250 including:

a. Narrative

b. Location of the survey by one-fourth section, Township and Range.
c. Date of the survey.

d. Scale and North Arrow.– The plat shall be drawn to a standard engineering scale sufficient to depict the change, approved by the County Surveyor.

e. The distance and course of all lines traces or established, giving the basis of bearing.

f. Measured bearings and distances used as a basis for establishing or reestablishing lines or

monuments separately indicated from those of record.

g. Monuments set and their relation to older monuments found.— A detailed description of monuments found and set shall be included and all monuments set shall be separately indicated from those found.

h. The surveyor's seal and original signature.

i. The surveyor's business name and address.

4. Compliance with ORS 92.050.– A person shall not submit a plat of a partition for record until all the requirements of ORS 209.250 and the plat requirements of the partition have been met.

a. The survey for the plat shall be done in a manner to achieve sufficient accuracy that measurements may be taken between monuments within one-tenth of a foot or one ten-thousandth of the distance shown on the plat, whichever is greater.

b. The plat shall be made by professional land surveyor.

c. The plat shall be of sufficient scale and lettering size, approved by the County Surveyor, so that:

(1) The survey and mathematical information and all other details are clearly and legibly shown on the plat.

(2) Each lot or parcel is numbered consecutively.

(3) The lengths and courses of the boundaries of each lot or parcel are shown on the plat.

(4) Each street is named and shown on the plat.

d. The locations and descriptions of all monuments found or set must be carefully recorded upon the plat and the proper courses and distances of all boundary lines, conforming to the Surveyor's Certificate, must be show.

e. The location, dimensions and purpose of all recorded and proposed public and private easements must be shown on the plat along with the County Clerk's recording reference if the easement has been recorded with the County Clerk. Private easements become effective upon the recording of the plat.

f. The area of each lot or parcel must be shown on the plat, to the nearest one-hundredth of an acre.

g. In addition to showing bearings in degrees, minutes and seconds, and distances in feet and hundredths of a foot, the following curve information must be shown on the plat:

(1) Arc length

(2) Chord length

(3) Chord bearing

(4) Radius

(5) Central Angle

h. The final plat may not be required to show any information or requirement that is or may be subject to administrative change or variance by the county, or any other information unless authorized by the County Surveyor. Examples of authorized information include:

(1) Parcels located in an "F-1", "F-3", "A-1" or "A-2" zone shall contain the following statement" "No investigation has been made of the suitability of any given parcel by an authorized representative of the Department of Environmental Quality, and no warranty is made that any given parcel will be used for subsurface sewage disposal. If subsurface sewage disposal evaluations have been completed, a copy shall be filed with the Wasco County Planning Department.

(2) Parcels located in any other zone shall contain the following statement: "The parcels have been approved for subsurface sewage disposal by an authorized representative of the Oregon Department of Environmental Quality."

(3) Planning Department File Number

(4) Tax lot Information

(5) Zoning classification and Plan Designation

(6) Table indicating the acreages of all existing and newly created parcels.

(7) Assessor Account Number for each existing property

5. Monuments.

a. The Initial Point of a plat must be on the exterior boundary of the plat and must be marked with a monument meeting the specifications of ORS 92.060(1). The location of the monument shall be with reference by survey to a known corner, per ORS 92.060 and shown on the plat.

b. The exterior boundary and all parcel corners must be monumented per ORS 92.060.

c. For partitions involving land in a flood plain, the provisions of 21.310(B)(8)(e) shall apply.

6. Surveyor's Certificate.— The plat must include a Surveyor's Certificate, together with the seal and signature of the surveyor of record, to the effect that the surveyor has correctly surveyed and

marked with proper monument the lands represented, including the initial point of the plat and its location, and accurately describing by metes and bounds, or other description as approved by the County Surveyor, the tract of land upon which the parcels are laid out.

7. Declaration.

a. The plat shall include a declaration, taken before a notary public, stating that the declarant has caused the plat to be prepared in accordance with the provisions of ORS 92.

b. Any dedication of land to public purposes or any public or private easements create, or any other restrictions made, shall be included in the Declaration.

c. If the declarant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the Declaration for the purpose of consenting to the property being partitioned.

d. If the plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the Declaration

e. Notwithstanding the provisions of subsection a. to d., the fee owner, vendor or the mortgage trust deed holder may record an affidavit consenting to the declaration, pursuant to ORS 92.075(4).

8. General Information.

a. Streets or Road for public use are dedicated without reservation or restriction other than reversionary rights upon vacation.

b. All easements provided for public services, utilities, or access are shown on the face of the plat along with the legal description and any limitations of the easements.— If it is a pre-existing easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorders number shall appear on the face of the plat.

c. Names and addresses of the partitioner, owner, mortgagee, if any, and the person preparing the plat are shown.

d. The names of any streets intersecting or within the parcels are shown.

e. All easements provided for public services, utilities, or access must be shown on the face of the map along with the legal description and any limitations of the easements.– If it is a pre-existing easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorder's number shall appear on the face of the map.

f. Zoning classification and Plan Designation

g. Space for date and signatures of the following officials for maps of partitions:

(1) County Planning Director or designee

(2) County Surveyor

(3) County Assessor/Tax Collector

9. County Surveyor Fees: In the cases where partitions are required to be surveyed, if the interior monuments are not set prior to the approval of the plat, the subdivider shall pay an additional fee to the County Surveyor equal to fifty percent (50%) of that fee provided in ORS 92.100(2), to cover the second field check as provided in post monumentation. In the event a second field and/or office check becomes necessary because of substantial discrepancies found in the first check, the County Surveyor may, at his discretion, charge a second fee or partial fee.

10. Farm and Forest Zones: For any land divisions in farm and forest zones, it is required that:

(1) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Agriculture or Forest;

(2) All owners of land in areas designated Agriculture or Forest within five hundred (500) feet of the perimeter of the subject lot/parcel on which the dwelling is proposed to be located have been notified and given at least ten (10) days to comment prior to a decision;

SECTION 21.110 Amendments to Preliminary Plans and Final Plats or Maps

A. Definitions:

1. "Minor Amendment" means a change which:

a. Does not change the number of parcels created by the subdivision or partition;

b. Does not enlarge the boundaries of subdivided partitioned, or boundary adjusted area;

c. Does not change the general location or amount of land devoted to a specific land use; or

d. Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces; or

e. Shall not adversely affect scenic, natural, cultural or recreational resources.

2. "Major Amendment" means any change which is not a minor amendment.

B. Approval of Minor Amendments:– A minor amendment to an approved preliminary subdivision, partition, or boundary adjustment plan or to an approved final subdivision, partition, or boundary adjustment plat or map may be approved by the Director.

C. Approval of Major Amendments:– Approval of a major amendment to an approved preliminary subdivision partition, or boundary adjustment plan or to an approved final subdivision, partition, boundary adjustment plat shall be subject to the provisions of Chapter 2.

SECTION 21.200– Property Line Adjustments & Replats

A. Property Line Adjustments

1. Application - The decision on a request for a Property Line Adjustment shall be under Chapter 2. A completed application, as prescribed by the Director, shall be filed prior to any action on a Property Line Adjustment.— A completed application shall contain the same information required for preliminary partition plans in Section 21.100(A).

2. Approval Standards for all zones except Agriculture Special, Open Space and Public Recreation: The request for a property line adjustment shall be approved by the Director if the following criteria are met;

a. The adjustment will not result in the creation of any new parcel(s).

b. GMA Only: The adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the maximum density allowed by the land use designation(s) for the affected parcels.

Adjustments that would result in the potential to create additional parcels through subsequent land divisions, shall be subject to the full provisions of Chapter 14 Scenic Area Review.

c. The proposal will not render any property unusable, nor shall the usefulness, utility or viability of the property be reduced from the designated purpose statement of the zoning district in which the property is located.

d. GMA Only:— Property which presently conforms to the lot size requirements of the zoning district in which it is located shall not become nonconforming as a result of the property line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

SMA Only:— The adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.

e. SMA Only: The adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.

f. Property line adjustments shall result in greater conformity where it can be achieved. Property line adjustments to nonconforming property (less than the current minimum lot size in the GMA and less than 40 acres in the SMA) shall not result in greater nonconformity, except to accomplish one of the following purposes:

(1) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided:

(a) in the GMA, the parcel to be enlarged would not become eligible for a subsequent land division and in the SMA the parcel to be enlarged would not become 40 acres or greater, and
(b) the amount of land transferred would be the minimum necessary to resolve the issue.

(2) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions (in the GMA) and residential development.

g. (GMA Only): Adjusted property lines may cross zoning district boundaries unless

(1) The adjustment will increase the number of parcels or lots which could potentially be created, based on the density requirements of the applicable zoning district; or

(2) The adjustment will allow the boundary of a parcel designated Large-Scale Agriculture, Agriculture Special, Commercial Forest, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

h. The adjustment will not cause any previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection criteria, including, but not limited to, requirements for setbacks, buffer zones and landscaping.

i. The adjustment shall not result in a parcel that cannot comply with existing land use and resource protection criteria, including, but not limited to requirements for setbacks, buffer zones and landscaping.

j. Proposed property line adjustments which have the net result of physically relocating a parcel to a new location beyond an existing common boundary line or which requires the creation of a private or public road will not be acted on, and must be reviewed under

Section 21.100 of the Wasco County Land Use and Development Ordinance.

~~5.~~**4.** (GMA Only): Approval Standards for Agriculture Special, Open Space and Public Recreation zones

In addition to meeting the standards of 2(a), (g), (h), & (i) above, adjustments
Shall comply with the following standards:

a. Agriculture Special & Open Space:— The adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (Note: There is no specified minimum parcel size for parcels designated Agriculture Special or Open Space.)

b. Public Recreation: The adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation.)

4. Survey Requirements for Property Line Adjustments:— An adjusted property line created by the relocation of a common boundary as described in ORS 92.010 (7)(b) shall be subject to the final mapping requirements listed in 21.100(B) & (C).— In addition the final map shall contain a written legal description of all newly created legal parcels as a result of the property line adjustment.

B. Replats shall be reviewed according to 1 or 2 below with the exception that the requirements of ORS 92.180 - 92.190 shall apply.

1. Replats which result in a reconfiguration between lots or parcels in a recorded subdivision or partition, a decrease of lots in a recorded subdivision, or a correction of an error or irregularity in the original plat shall be reviewed according to A above.

2. Replats which result in an increase in the number of lots in a recorded subdivision shall be reviewed according to Section 21.100, Land Partitioning Approval.

SECTION 21.300— Preliminary Subdivision Plan Approval

The approval of a preliminary subdivision plan is reviewed by the Planning Commission subject to the provisions of Chapter 2.

A. Application for Preliminary Subdivision Plan Approval:

1. An application for preliminary subdivision plan approval shall be initiated as provided in Chapter 2 of this Ordinance.

2. In addition to the complete application requirements for Chapter 14 - Scenic Area Review the applicant shall file with the Director a preliminary subdivision plan, together with improvement plans and other supplementary information required by B below to demonstrate the design and objectives of the subdivision.

3. The preliminary plan shall be clearly and legibly drawn. It shall show all required information to scale so that the Approving Authority may have an adequate understanding of what is proposed. Under ordinary circumstances, the scale of the drawing is to be one (1) inch equals one hundred (100) feet, or one (1) inch equals fifty (50) feet.

B. Information Required in the Preliminary Subdivision Plan:

1. All existing and proposed means of utilities for each tract including but not limited to water, sewer, telephone lines, and electrical lines.

2. Any existing permanent structures and their setbacks to existing and proposed subdivision lot lines.

3. Predominant topographical features such as bluffs and rock outcroppings.

4. Typical cross-sections of proposed streets, showing all improvements proposed within the street right-of-way at such scale to clearly show the details thereof.

5. Contour lines may be required at intervals to be determined by the Director.

6. The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land.

7. The location, width and names of all existing or plotted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way and other important features such as section lines, political subdivisions or corporation lines and school district boundaries.

8. Vicinity sketch showing how the proposed streets and alleys may connect with existing streets in neighboring subdivisions or undeveloped property.

9. Zoning classification and plan map designation of the land.

10. The location of any environmental hazard; area unsuitable for building purposes; or land subject to mass movement, excessive erosion, or similar natural phenomena.

11. The proposed name of the subdivision.

12. North point, scale, date of preparation, and basis of bearing.

13. Areas subject to flooding, storm water overflow and all water courses and their directional flows, including marshes and wetlands;

14. Names and addresses of the subdivider, owner, mortgagee, if any and of the engineer, surveyor or land planner or landscape architect.

15. The tract description according to the real estate records of Wasco County.

16. The boundary lines (accurate in scale) of the tract to be subdivided.

17. All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any.

18. All existing and proposed public and private easements, restrictions, and covenants providing for, or affecting all services, utilities, or access must be shown on the face of the map along with the legal description.– If it is a pre-existing easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the Recorder's number shall appear on the face of the map; and

19. Proposed lots, approximate lot dimensions, and lot numbers.— Where lots are to be used for purposes other than residential, it shall be indicated upon such lots.

20. Parks, playgrounds, recreation areas, parkways, and other open space for public use.

21. Locations of proposed tree plantings or other plantings.– Appropriate information clearly stating the map is a tentative plan.

22. Proposed source of water supply, if any; estimated volume to be available, together with data regarding the location, type, and size of all storage facilities, distribution lines, fire hydrants, and gate valves.

23. If domestic water supply proposed by the developer includes the drilling of wells, information on the feasibility of well drilling.– Such information will be provided even if the developer is not required by the Commission to drill the wells.

24. The proposed method of sewage disposal.

a. If to be served by a community sewer system, data regarding the location, type, size, approximate grade, and capacity of all collection lines, feeder lines, trunk lines, pumping stations, storage facilities, backflow prevention devices, and gate valves.– If treatment is to be accomplished by an existing municipal or public sewage facility, a statement regarding the ability of the facility to accommodate the projected increased load.— If treatment is to be accomplished by a new installation or privately owned treatment facility, a statement regarding conformity to applicable regulations of the Oregon State Department of Environmental Quality.

b. If to be served by a community collection and storage system, data regarding the location, type, size, approximate grade, and capacity of all lines, holding tanks, storage facilities, pumping facilities, and valves.

c. If to be served by subsurface sewage disposal, a statement from an authorized representative of the Department of Environmental Quality, State of Oregon, or the County Sanitarian

regarding the approval of each lot or parcel to be sold for installation of septic tank facilities.

25. Proposed building setback lines.

C. Development Phasing:

1. A preliminary subdivision plan may provide for platting in as many as three (3) phases.— The preliminary plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase.

2. Time limitations for the various phases must meet the following requirements:

a. Phase 1 final plat shall be approved within twenty four (24) months of preliminary approval.

b. Phase 2 final plat shall be approved within thirty six (36) months of preliminary approval.

c. Phase 3 final plat shall be approved within forty eight (48) months of preliminary approval.

D. Criteria for Approval of Preliminary Subdivision Plan:

1. A decision on the preliminary subdivision plan application shall be made by the Approving Authority as provided in Chapter 2.

2. The preliminary subdivision plan shall be approved if the Approving Authority finds the following:

a. The information required by this Chapter has been provided;

b. The standards of Section 21.030 have been met; and

c. If the preliminary plan provides for development in more than one phase, the Approving Authority makes findings and conclusions that such phasing is necessary due to the nature of the development, and that the applicant will be able to comply with the proposed time limitations.

E. Duration of Preliminary Subdivision Plan Approval:

1. Approval of a preliminary subdivision plan shall be valid for twenty four (24) months from the date of approval of the preliminary plan, provided that if the approved preliminary plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of (C)(2) above.

2. If any time limitation is exceeded, approval of the preliminary subdivision plan, and any subsequent phases, shall be void.— Any subsequent proposal by the applicant for division of the property shall require a new development request.

F. Granting of Extensions:

1. An applicant may request an extension of the validity of a preliminary subdivision plan approval, or, if the preliminary plan provides for phased development, an extension of the validity of preliminary approval with respect to the phase the applicant is then developing. Such request shall be considered an Administrative Action and shall be submitted to the Director, in writing, prior to expiration of such approval, stating the reason why an extension should be granted.

2. The Director may grant one extension of up to twelve (12) months in the validity of a preliminary subdivision plan approval or, if the preliminary plan provides for phased development, one extension of up to twelve (12) months in the validity of a preliminary subdivision plan approval with respect to the phase then being developed, if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final plat approval within the original time limitation.

SECTION 21.310 Final Subdivision Plat Approval

Approval of a final subdivision plat is reviewed by the Planning Commission and subject to the provision of Chapter 2.

A. Application for Final Subdivision Approval:

1. Before expiration of the validity of the preliminary subdivision plan approval obtained pursuant to 21.300, the applicant shall cause an Oregon licensed land surveyor to survey the subdivision and to prepare a final plat, in conformance with the approved preliminary plan.

2. The applicant shall initiate a request for final plat approval by filing with the Director a final plat, an exact reproducible copy, other supporting documents as described in B, Final Subdivision Plat Requirements through D, Performance Bond, below, and the appropriate fees as established by the County Governing Body.

B. Final Subdivision Plat Requirements:

1. The final plat shall be prepared in conformance with all provisions of this Section.

2. Prior to submission for final approval, the final subdivision plat shall be signed by all persons who own land in the subdivision and the mortgagees, or by their authorized representatives or any title-holder. The plat shall bear the signature and seal of the licensed land surveyor responsible for its preparation and certification that the plat has been correctly surveyed and properly monumented. All signatures must be with black ink.

3. Conformance to preliminary plan. The plat map shall substantially conform to the preliminary plan as approved.

4. Preparation. All plat maps shall be prepared by a professional land surveyor registered with the State of Oregon.

5. Format.— The plats shall be drawn with an archival quality black permanent ink, approved by the County Surveyor, on 4 mil (minimum) thick polyester based transparent drafting film, or an equivalent, matted on both sides, eighteen inches by twenty-four inches (18"x24") in size.— The quality of said drafting film and any other drafting particulars will be subject to the County Surveyor's approval.– No diazo process may be used.

6. Scale.– The plat shall be drawn to a standard engineering scale sufficient to depict the subdivision of land approved by the County Surveyor.

7. Survey Accuracy.— The survey for the plat shall be done in such a manner to achieve sufficient accuracy that measurements may be taken between monuments within one-tenth of a foot or one ten-thousandth of the distance shown on the plat, whichever is greater.

8. Measurements.– The subdivision plat shall contain the following measurements:

a. The boundary lines with distance and bearing of the exact location and width of existing or recorded streets intersecting the boundary.

b. The arc, length, chord length, chord bearing, radii, and central angles of curves.

c. Block indications, lot numbers and lot lines with dimensions in feet and hundredths and bearings and angles to street and alley lines.

d. The area of each lot in either acres, to the nearest 1/100th of an acre, or square feet.

e. All measured bearings or angles and distances separately indicated from those of record.

f. All monuments set and their relation to older monuments found.— A detailed description of monuments found and set shall be included and all monuments set shall be separately indicated from those found.

Any additional information shall be typed or printed in narrative form.

9. Monuments. The subdivision plat shall contain the location, material, and size of all monuments which have been set.– A monument shall be set at each of the following locations.

a. The Initial Point, which must be on the exterior boundary of the plat and must be marked with a monument meeting the specifications of ORS 92.060(1).– The location of the monument shall be with reference by survey to a known corner per ORS 92.060.

b. The exterior boundary including every angle point or curve point along the boundary lines. Any exceptions shall be allowed only with approval of the County Surveyor.– All monuments for the exterior boundaries of a subdivision shall be set and referenced on the plat before the plat is offered for approval.

c. All lot corners, except lot corners of a cemetery.– All monuments for the interior boundaries of a subdivision shall be set and referenced on the plat before the plat is offered for approval, unless the surveyor certifies the remaining monuments will be set.– If the interior monuments are not set prior to the approval of the plat:

(1) The person performing the survey work shall, by affidavit, certify that the interior monuments will be set by a date specified by him, such a date not exceeding one year from the date of submission of the plat for approval.– The County Surveyor may extend the one year period and such extension shall be in writing.— The County Surveyor shall submit a written copy of the extension to the Director.

(2) The subdivider shall furnish to the Wasco County Surveyor's Office a bond or cash deposit, at the option of the Wasco County Surveyor's Office in the amount equal to not more than 120 percent of the County Surveyor's estimate of the cost to perform the work for the interior monumentation.

(3) Space will be provided on the face of the plat for endorsement of the recording reference to the plat copy to be filed upon completion of such interior monumentation.

(4) Upon completion of the interior monumentation, the person performing the survey shall indicate upon a copy of the plat that monumentation has been completed.

(5) The County Surveyor shall check the interior monumentation, and, if the conditions required on the tentative plan have been complied with, he shall so certify on the plat copy and file it with the County Clerk.

(6) The County Clerk shall file the plat copy and reference the filing number on the original plat.– The County Clerk shall advise the County Surveyor of such number for notation on the plat previously filed with him.

d. Flood Plain Monumentation for Subdivisions and Partitions.— For subdivisions and partitions involving land in a flood plain, the following specifications shall apply:

(1) A standard Bench Mark shall be a minimum of thirty-six inches (36") in depth and eight inches (8") in diameter, constructed of concrete with a brass cap set in the center.— The brass cap shall bear the name of the Bench Mark, the year set and the agency or Registered Land Surveyor's license number.– The Bench Mark shall be set at least thirty inches (30") in the ground in a stable, protected area of the partition or subdivision.— The elevation established shall be 3rd order or higher.

(2) The Bench Mark location shall be indicated on the face of the Plat or Final Survey Map along with its name and elevation and the name, year, and elevation of the Bench Mark upon which the elevation is based.

(3) The level notes or a copy thereof shall be filed with the final map. Any exceptions shall be allowed only with the approval of the County Surveyor.

(4) Field notes and closure copies to County Surveyor:

(a) Copies of all lot closures, block closures and plat closures of the subdivision shall be furnished to the County Surveyor upon his request.

(b) If the interior monuments are not set prior to the approval of the plat, the field notes or legible copies for the original survey of the subdivision shall be furnished to the County Surveyor upon his request.

10. Surveyor's Certificate.— The plat must include a Surveyor's Certificate, together with the seal and signature of the surveyor of record, to the effect that the surveyor has correctly surveyed and marked with proper monument the lands represented, including the initial point of the plat and its location, and accurately describing by metes or bounds, or other description as approved by the County Surveyor, the tract of land upon which the parcels are laid out.

11. Declaration

a. The plat shall include a declaration, taken before a notary public, stating that the declarant has caused the plat to be prepared in accordance with the provisions of ORS 92.

b. Any dedication of land to public purposes or any public or private easements created, or any other restrictions made, shall be included in the Declaration.

c. If the declarant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the Declaration for the purpose of consenting to the property being partitioned.

d. If the plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the Declaration.

e. Notwithstanding the provisions of subsections a. to d., the fee owner, vendor or the mortgage or trust deed holder may record an affidavit consenting to the declaration, pursuant to ORS 92.075 (4).

12. General Information.— The map shall comply with ORS 209.250 and contain the following information in addition to the preliminary plan information except that 21.3 00(B)(1) – (8) shall not be required to be on the face of the plat:

a. Table indicating the approximate acreages of all existing and newly created parcels and lots.

b. Assessor Account Number for each existing property.

c. Planning Department File Number.

d. Legal description of the subdivision boundaries, area of the subdivision in acres, and the

location of the subdivision by one-fourth section and Donation Land Claim, Township and Range.

e. Subdivision block and lot boundary lines and street right-of-way and center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arcs, points of curvature, chord bearings and distances, and tangent bearings.– Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings.

f Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line.– For streets on curvature, curve data shall be based on the street center line.– In addition to the center line dimensions, the radius and central angle shall be indicated.

g. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference.– If an easement is not of record, a certified copy of the easement shall be provided.– The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown.— If the easement is being dedicated by the map, it shall be properly referenced in the owner's declaration.

h. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.

i. Numbering of blocks and lots, as follows:

(1) Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.— The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure or lot numbers.— In an addition to a subdivision of the same name, numbers shall be a continuation of the numbering in the original subdivision.

(2) Lot numbers beginning with the number "1" and numbered consecutively in each block.

j. Ties to any city, county, or adjacent subdivision boundary lines.

k. The course of all lines traced or established, giving the basis of bearing and the distance and course to a section corner, one-sixteenth corner or Donation Land Claim corner in Township and Range.

l. Space for date and signature of the County officials specified in I below.

m. Any conditions specified by the Approving Authority upon granting preliminary approval.

n. A copy of the covenants, if any, that will be placed on the subdivision, including the volume and page(s) of recording with Wasco County.

o. A copy of all documents relating to establishment and maintenance of private facilities, common areas and easements, including the volume and page(s) of recording with Wasco County.

p. A copy of all documents relating to additional requirements or restrictions required by the County as a condition of approval.

q. A declaration signed and acknowledged by all parties having any record title interest in the land consenting to the preparation and recording of the plat.

r. A declaration signed and acknowledged by all parties having any record title interest in the land dedicating all land intended for public use and common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems the donation of which was made a condition of the approval of the tentative plan.

s. A narrative per ORS 209.250(2).

t. All subdivisions outside the boundaries of an irrigation district, drainage district, water control district, or district improvement company must file a statement of water rights. If a water right is appurtenant to the lands of the subdivision, the statement of water right and a copy of the subdivision plan must be submitted to the Oregon Water Resources Department. A copy of the acknowledgment from the Water Resources Department must be submitted with the final subdivision plat.

u. Any additional information made a condition of approval of the tentative plan.

13. Supplemental Information with Final Plat. The following data shall accompany the final plat if requested by the Director or County Surveyor:

a. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

b. Sheets and drawings showing the following:

(1) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.

(2) The computation of all distances, angles, and courses shown on the final map.

(3) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.

c. A copy of any dedication requiring separate documents.

d. A Plan and Profile showing the following:

(1) Widths of the proposed dedication throughout the length of the proposal.

(2) Centerline alignment showing P.C. and P.T. stationing on all curves, necessary curve data and bearings of tangents.

(3) Ground line and grade line profile on the centerline of the proposed street or road.

(4) Vertical curve data showing P.I. elevations and stations, length of vertical curve and tangent grades.

(5) Proposed drainage structures, showing both size and type of structure.

(6) Earthwork distribution, i.e., volume of cuts and fills shown in appropriate haul distribution brackets.

(7) Provisions for waste or borrow areas if widened cuts or fills do not provide the desired balance of material.

(8) Toe of slope and top of cut lines showing the limits of the construction area within the dedication.

(9) Typical section of roadbed to be constructed.

(10) Sections lines, fractional section lines and/or Donation Land Claim lines tied to corner from which dedication description is prepared.

(11) Vicinity map in the upper left hand corner of the first plan sheet showing roughly the relationships of the proposed road to cities, state highways, county roads, or other well-defined topographical features.

(12) The stamp and signature of the registered Professional Engineer or qualified land surveyor preparing the plans.

e. Cross Sections

(1) Shall be platted on standard 10-square inch or CAD cross-section print-outs.

(2) Shall show proposed widened cuts or fill if these are needed for material balance.

f. If sewer and/or water facilities are required as the condition of approval of the Final Plat, the following may be required to be submitted with the Final Plat:

(1) Plans and profiles of proposed sanitary, and storm-water sewers, with grades, pipe sizes and the location of manholes indicated.

(2) Plans and profiles of the proposed water distribution system showing pipe sizes and the location of valves and fire hydrants.

(3) Specification for the construction of all proposed sewer and water lines and other utilities.

(4) Grading plans and specifications as required for areas other than streets and ways.

(5) Planting plans and specifications for street trees and other plantings in public areas.

14. County Surveyor Fees:– The subdivider shall pay a subdivision review fee to the County Surveyor as provided in ORS 92.100(2) which is included in the cost at the time of application.– In the event a second field and/or office check becomes necessary because of substantial discrepancies found in the first check, the County Surveyor may, at his discretion, charge a second fee or partial fee.

C. Agreement for Improvements

1. Before approval of the final subdivision plat, the applicant shall either install the improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the subdivision, or shall execute and file with the County Governing Body an agreement between himself and the County specifying the period within which required improvements and repairs will be completed.– The agreement may provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.

2. An applicant may request an extension of time for completion of required improvements.– Such request will be considered an application for administrative action.— Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him to fulfill the agreement within the original time limit(s).

D. Performance Bond

1. To assure full performance of the improvement agreement, an applicant shall provide one of the following:

a. A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the District Attorney; or

b. cash deposit with the County Tax Collector; or

c. certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the County Road ~~m~~**M**aster.– The bank certification or letter of assurance shall be approved by the District Attorney; or

d. cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon

the direction of the County Road ~~m~~**M**aster.— Escrow instructions shall be approved by the District Attorney.

2. Such assurance shall be for a sum determined by a qualified licensed engineer or in the case of survey monuments, a licensed land surveyor as sufficient to cover the costs of included improvements and repairs or monuments and including related County expenses; and

3. Such assurance provides that:– If the applicant fails to carry out provisions of the agreement or the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement; if the amount of the bond or cash deposit exceeds the cost and expense incurred by the County, the County shall release the remainder; and if the amount of the bond or cash deposit is less than the cost and expense incurred by the County, the applicant shall be liable to the County for the difference.

E. Parks, Playgrounds, or Recreational Areas:– The Approving Authority may require parks, playgrounds, or recreational areas be provided in the final subdivision plan and dedicated to the County in locations and of size indicated by the Plan for the area in which the subdivision is located.

F. Recreational Fund:— Where no parks, playgrounds or recreational areas are required by the Commission, the subdivider shall pay to the County a sum equal to six and two-thirds percent (6 2/3%) of the assessed value of the land area, exclusive of streets, within the subdivision.– Such sum shall be paid to the County Clerk prior to recording of the final subdivision plan and such sum shall be held by him in a special fund for acquisition and development of parks, playgrounds, and recreational areas within the immediate area of the subdivision.

~~6.~~**5.** Development Phasing:— If the preliminary subdivision plan approval, pursuant to— Section 21.300, provided for phasing of development, the applicant may request final plat approval for an individual phase of the subdivision by filing with the Director a final plat and supporting documents, as provided in A through D above, for that phase only.

H. Standards for Final Subdivision Plat Approval

1. The Planning Commission shall grant final subdivision plat approval if they determine that the final plat and supporting documents are in substantial conformance with the approved preliminary plan, including any conditions imposed by the Approving Authority.— Substantial conformance means that any differences between the preliminary and final plans are "minor amendments", as defined in 21.110(A)(1).

2. The granting of final plat approval shall not be affected by a change in the zone or plan map designation of the subject property made after approval of the preliminary subdivision plan.

3. Approval of a final plat by the Approving Authority shall constitute an acceptance by the public of the dedication of any street shown on the plat.– Acceptance of a street by approval of the final plat shall not constitute an acceptance to maintain the street.— Acceptance for maintenance of any street by virtue of approval of the final plat shall be by a separate process of petitioning the County Governing Body for acceptance of road maintenance.– Approval of the

final plat shall not act as an acceptance by the public of any other land for public purposes.

I. Filing and Recording of Final Plat

1. After final plat approval, the applicant shall submit without delay the final plat for signatures of the following County officials, in the order listed:

a. Planning Commission Chairman;

b. County Surveyor;

c. County Assessor/Tax Collector;

d. An authorized representative of the Department of Environmental Quality, State of Oregon, or the County Sanitarian;

e. County Sheriff;

f. County Commissioners;

g. County Clerk.

2. The final plat shall be recorded within thirty (30) days of the date that the approvals and signatures required by H, Standards and Recording of Final Plat and (1) above were obtained.

SECTION 21.400– Private Road Approval and Public Road or Street Dedications

Any person desiring to create a public street or private road not part of a subdivision or land division shall make written application to the Director.– Approval of a public or private road is reviewed by the County Governing Body.— Public or private roads being created as part of a subdivision or land division shall be reviewed by the Planning Commission subject to the provisions of Chapter 2.

A. Application for Tentative Plan

1. An application for tentative plan approval for road or street dedication or private road approval shall be initiated as provided in Chapter 2 of this Ordinance.

2. The applicant shall submit to the Director a written application and of a Tentative Plan prepared in accordance with B below, Information Required on Tentative Plan.

3. The Director shall distribute a copy of the Tentative Plan to the County Road ~~m~~**M**aster and obtain their recommendation on the proposed action.

B. Information Required on Tentative Plan.— Tentative Plans shall include the following information presented in the following form:

1. The Tentative Plan shall be clearly and legibly drawn to an appropriate scale so that the

Approving Authority may have an adequate understanding of what is proposed.

2. A vicinity map showing the proposal in relationship to other existing or proposed streets.

3. Date, north point and scale.

4. Name and address of applicant and the person preparing the Tentative Plan.

5. Appropriate identification of the drawing as a Tentative Plan.

6. Location of the proposed dedication or private road abutting the unit of land proposed to be approved by the Section, Township and Range sufficient to define its location and, if available, a centerline description or right-of-way boundary description.

7. Zoning classification and Plan Map designation.

8. The names of adjacent subdivisions and the names of recorded owners of adjoining lots, parcels or units of land and the amount of frontage each owner has on the proposed dedication or on the private road.

9. Existing roads or street(s) intersecting or meeting the proposed dedication or private road.

C. Approval of Road or Street Dedication

1. After considering the recommendation by the County Road ~~m~~**M**aster, the Approving Authority shall approve the Tentative Plan for road or street dedication and recommend to the County Governing Body the dedication of a public road if it determines that:

a. the information required by this section has been provided;

b. the road or street is or will be improved to meet all applicable standards of these regulations; and

c. dedication of the road or street to the public is consistent with the goals, policies and map of the Plan.

3. If Tentative Plan to dedicate a road or street is recommended to the County Governing Body, and the street to be dedicated has not been improved, the Approving Authority shall recommend conditional approval on improvements of the road or street to the improvement standards recommended by the County Road ~~m~~**M**aster.

D. Acceptance of Dedication by the County Board of Commissioners

1. Before the County Governing Body may accept the dedication, the applicant must have completed any improvements required as a condition of the approval of the dedication or have complied with 21.310(D).

2. Prior to acceptance by the County Governing Body, the owner of the land to be dedicated shall submit a preliminary title report issued by a title insurance company in the name of the owner of the interest in the land.

3. Upon acceptance of the dedication by the County Governing Body, the owner of the land to be dedicated shall prepare a warranty deed dedicating the land to the public.

4. The County Governing Body shall indicate their approval of the dedication by an order accepting the deed and by recording such order with the recording of the deed.

5. No road or street will be accepted for maintenance as part of the county road system unless it meets the standards of subsection (B) and (C) of this Section and is ordered accepted by the County Governing Body pursuant to law.

E. Approval of a Private Road

1. The County Road ~~m~~**M**aster shall determine if the private road meets the improvement standards and shall submit his findings as a written recommendation to the Approving Authority.

2. The Approving Authority shall approve a private road if it finds that the private road meets the standards of Section 21.030 and also the improvement standards for private roads.

3. Upon approval of such private road, the applicant shall submit a boundary line or centerline survey of the road, unless the location of the road is already established by existing property line surveys recorded with the County Surveyor. The boundary line survey shall be submitted to the Director and the Wasco County Surveyor.

SECTION 21.410 Improvements

The improvement standards contained in Sections 21.410 through 21.440 shall apply to all subdivisions, street dedications and private road approvals in Wasco County.

A. Improvement Requirements: The following improvements shall be installed at the expense of the subdivider partitioner, or person(s) creating the road:

1. Roadways in all cases shall conform with the improvement standards set forth herein.

2. Sidewalks shall be constructed in dedicated pedestrian ways along streets where determined necessary by the Approving Authority for pedestrian safety.

3. The applicant shall undertake on-site grading and construction or installation of drainage facilities necessary for the purpose of proper drainage of the subdivision partition or properties adjacent to the dedicated road.

4. The applicant shall make improvements to existing County or public roads determined necessary by the Approving Authority at connections and intersections with subdivision streets and at locations where additional subdivision lots or partition parcels are created which front on County maintained roads.

5. Road signs shall be required as an improvement in a subdivision or partition. Wasco County shall install and maintain such road or street signs, provided the person(s) creating the road pays the expense of the initial improvement.

6. When necessary, and consistent with all applicable standards including those in Chapter 14, sidewalks shall be required as part of a new road when a proposed development or land division is within an urban growth boundary, or when:

   a. The subject property is located within one-quarter mile of a school, shopping center, recreation area, or other use likely to create pedestrian traffic; or

   b. The surrounding area is developed with sidewalks or is zoned for commercial, industrial or urban residential uses.

7. Sidewalk(s) shall be constructed to applicable standards (see Table 2 Urban Wasco County Roadway Design Standards in the Wasco County Transportation System Plan). Sidewalk requirements may be waived, or may be deferred through a road improvement agreement when, in the opinion of the County, sidewalks would not be immediately necessary to accommodate pedestrian traffic.

8. Bicycle facilities shall be required along new roads when necessary to extend an existing bicycle route, or when a bicycle route or way is proposed within an adopted Transportation System Plan.

B. Improvement Policies and Standards

The improvement policies and standards contained herein shall apply to development conducted under provisions of this Ordinance. They are primarily intended to govern the design and construction of streets and roads which are to be accepted into the Wasco County maintained road system. These policies and standards also apply to other roads, both public and private, as determined appropriate by the Approving Authority.

It shall be the duty of the Wasco County Road ~~m~~**M**aster to interpret the provisions and requirements of these standards in such a way as to carry out their intent and purposes.

SECTION 21.420 Public Streets and Roads

A. General Design Policies: The design of improvements governed by these standards shall, in general, conform to policies set forth in the current editions of the following publications by the American Association of State Highway and Transportation Officials (AASHTO):

1. "A Policy on Geometric Design on Highways and Streets".

4. "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400)"

B. Design Criteria

1. Improvement of public streets and roads shall conform to the design standards designated for the particular classifications indicated in Table 21-1 (Rural Public Roadway Design Standards) & 21-2 (Urban Public Roadway Design Standards) of this Chapter

2. Roadway sections shall conform to the sections designated for the particular road classifications.

3. The design of structural sections of all roadways required by this Ordinance, including arterials, collectors, local access roads and principal highways shall conform with the General Design Policies in A above and the standard specifications which are applicable to construction of improvements in E(2) below, Construction. Any deviation from these standards shall be approved by the County Road ~~m~~**M**aster.

4. The design standards listed and referenced in this section may only be varied only through a request to the Wasco County Public Works Director by a Professional civil engineer.

C. Standard Drawings

1. The County Road ~~m~~**M**aster shall have the authority to publish "Standard Drawings" for the design of public streets and roads. These drawings may be included in the separately adopted document listed in B(1) above.

2. The applicant's design shall conform to the "Standard Drawings".

D. General Considerations

1. The County Road ~~m~~**M**aster may impose additional design requirements as are reasonably necessary to provide safe and adequate access.

2. There shall be provided a cul-de-sac at the end of each street or road that ends within the confines of a proposed subdivision or partition. Any proposed street or road that terminates at a proposed subdivision or development boundary will be provided with a temporary cul-de-sac or turnaround which may be discontinued at such time as the road or street is extended.

3. Any road or street which does not connect directly to a County maintained road, city maintained street or state highway shall not be accepted for maintenance by the County. No other road or street shall be accepted for maintenance as a part of the County road system unless it is ordered accepted by the County Governing Body pursuant to law.

E. Development Requirements

1. Engineering:

a. Plans - Construction plans may be required for improvements governed by these standards. Such construction plans shall be prepared under the direction of a consultant engineer registered in the State of Oregon, and shall be submitted for approval to the County Road ~~m~~**M**aster and shall include the following information:

(1) Widths of all proposed road right-of-way dedication.

(2) Centerline alignment showing P.C. and P.T. stationing on all curves, necessary curve data and bearing of tangents.

(3) Original ground line and grade line profile on the centerline of the proposed road.

(4) Vertical curve data showing P.I. elevations and stations, length of vertical curve and tangent grades.

(5) Proposed drainage structures, showing both size and type of structure.

(6) Toe of fill and top of cut lines.

(7) Typical structural section of roads to be constructed.

(8) Section lines, fractional section lines and/or Donation Land Claim lines. Also, bearing and distance from which the centerline description is prepared, and basis of bearings.

(9) A vicinity map in the upper left hand corner of the first plan sheet showing the relationships of the proposed road to cities, state highways, county roads, or other well-defined topographical features.

(10) Proposed utilities, showing location and type. Also, a written statement that locations have been approved by affected utility companies. A composite map shall be furnished by the consultant engineer to all affected utilities.

(11) The plans shall contain a standard symbol sheet approved by the County Road ~~m~~**M**aster.

(12) The stamp and signature of a consultant engineer preparing the plans.

(13) The location and dimensions of the pedestrian circulation system.

(14) The location and dimensions of bicycle parking, when required.

b. Cost Estimates - The consultant engineer shall submit, with his proposed construction plans, a construction cost estimate. This estimate shall include all related road-work and affected utility installation and/or relocation.

c. Monumentation -– All horizontal curve points shall be referenced with a 5/8" x 30" steel rod set perpendicular to the tangents at the right-of-way line and witnessed by a white 4" x 4" x 4' cedar post or a four foot section of steel fence post painted white.— In the case of a curbed street, the witness posts may be omitted.

2. Construction:

a. Standard Specifications - The Standard Specifications which are applicable to the construction of improvements governed by these standards are the following (except as they may be modified, supplemented or superseded by Wasco County):

(1) "Oregon Standard Specifications for Construction", most recent edition, published by the Oregon Department of Transportation, and the American Public Works Association, Oregon Chapter.

(2) "Oregon Standard Specifications for Construction", most recent edition, published by the Oregon Chapter of the American Public Works Association (APWA) and the Oregon Department of Transportation (ODOT).

References to "Oregon Transportation Commission" shall be construed to mean Wasco County and the Wasco County Governing Body, respectively.— "Engineer" and "Director" shall be construed to mean the County Road ~~m~~**M**aster, or his properly authorized agent(s) acting within the scope of ~~his/her~~**their** particular duties.

b. Permits - A permit to occupy and perform operations shall be obtained from the County Road ~~m~~**M**aster prior to commencing construction within the right-of-way of any County maintained road.

c. Bond Requirements -— Before the dedication or deed to the public for street or road right-of-way is accepted by the County Governing Body, the applicant shall provide a performance bond or other security, as set forth in 21.310(D).

d. Inspection Schedule - After financial assurance is received by the County, the applicant shall arrange for periodic inspection by his consultant engineer.— At a minimum, such inspection shall occur at the following stages of construction:

(1) After clearing and grubbing is completed.

(2) After grading and drainage is completed.

(3) After rock surface is completed.

(4) After paving is completed.

e. Certification and Warranty Requirements -

(1) When the project is completed, the consultant engineer shall certify to the County, in writing, that the project has been constructed in substantial conformance with the plans and specifications. The certification shall include a copy of the results of all conformance tests performed in conjunction with the design and construction of the project.

(2) Upon receiving said certification, the County will accept the project for normal and routine maintenance, provided the applicant posts a warranty bond equal to twenty percent (20%) of the performance bond required in (c) above for the correction of any deficiencies that may arise within a period of one (1) year.

(3) Upon receiving the warranty bond for the correction of deficiencies and upon certification by the County Road ~~m~~**M**aster that the provisions of the improvement agreement are complete, the performance bond required by (c) above shall be released to the applicant.

(4) The County Road ~~m~~**M**aster shall inspect the project at the end of one (1) year and list the deficiencies to be corrected and shall notify the applicant of such deficiencies. In the event no deficiencies are found, the warranty bond will be released to the applicant at that time.

(5) Upon notification of the deficiencies, the applicant shall commence corrective work within thirty (30) days and shall complete such work at the earliest possible date. Upon satisfactory completion, the warranty bond shall be released to the applicant.

(6) In the event the applicant fails to commence corrective work within thirty (30) days of notification of deficiencies, the County shall cause the corrective work to be accomplished and call on the warranty bond for reimbursement. If the amount of the warranty bond exceeds cost and expenses incurred by the County, the County shall release the remainder; and if the amount of the warranty bond is less than the cost and expenses incurred by the County, the applicant shall be liable to the County for the difference.

f. As-Constructed Plans - The County Road ~~m~~**M**aster, at the completion of the project, may require the consultant engineer to furnish permanent reproducible plans of the work or an "as-constructed" modification of the original permanent reproducible plans previously submitted, as may be required under (1)(a) above, Plans.

(1) The title sheet shall contain the consultant engineer's signed P.E. (Professional Engineer) stamp and a certification signed by the engineer "that the project has been constructed in substantial conformance with the plans and specifications".

(2) The title sheet shall contain in the title block the name of the street or road; the name of the subdivision; the names of the applicant and consultant engineer preparing the plan; the location of the street or road according to Section, Township and Range; a typical section showing surfacing, thickness and types, side slopes and cut and fill slopes; and, a vicinity map of approximately 1"= 1 mile showing where the street or road is located in relation to Sections, Townships and Ranges and surrounding topographical features and its connections to existing County or State highways.

(3) The plans shall show the centerline alignment and all curve data, and direction of tangents, the location and monumentation of the street or road, right-of-way widths, drainage easements, section lines, lot lines of the subdivision, and all drainage structures, their sizes, lengths and locations, and underground utilities, their types, sizes and locations.

(4) The plans shall show the original ground line and the finish grade on the centerline, all P.I. (Point of Interest) elevations and stations, elevations of vertical curves and tangent grades.

(5) The plans shall have a title block in the lower right hand corner giving the name of the street or road, the subdivision, the name of the consultant engineer preparing the plans and the name of the applicant.

(6) The consultant engineer will provide accurate "as-constructed" plans to all affected utility companies.

g. Signing - Permanent traffic control and street or road identification signs will be required for all subdivisions.

(1) The applicant shall deposit (in cash) with the County Road ~~m~~**M**aster, an amount determined by the Road ~~m~~**M**aster adequate for the construction and installation of permanent signing required. Upon receiving said cash deposit, the County will prepare, place and maintain required permanent signing.

(2) Temporary construction signing will be required on all streets and roads under construction which are being used by the public. Temporary construction signing shall be in conformance with the "Manual on Uniform Traffic Control Devices", as published by the Department of Transportation, Federal Highway Administration, and supplemented by State of Oregon "Standard Practice and Interpretations", and shall be furnished, installed, maintained and removed at the expense of the applicant.

SECTION 21.430 Private Roads

A. General Design Policies: Private roads shall conform to the requirements outlined in Table 3 of this Chapter.

B. Design Criteria

Private roads shall conform to the requirements outlined in the Wasco County Road Standards document indicated in 21.420(B)(1) as well as the criteria below:

The design standards listed and referenced in this section may only be varied only through a request to the Wasco County Public Works Director by a registered Professional civil engineer.

1. Finished top surface width of roads shall be a minimum of twelve (12) feet.

2. The roadbed shall have an all-weather surface of suitable material, in good repair and of

sufficient depth to ensure a solid roadbed, but in no case less than four (4) inches of crushed rock.

3. Turnouts shall be provided no further than six hundred (600) feet apart and not less than fifty (50) feet in length and eight (8) feet in width excluding taper, unless further restricted by fires safety standards.

4. The County Road ~~m~~**M**aster may require paving for road profile grades exceeding fifteen percent (15%), and in no case shall a grade exceed twenty percent (20%).

5. Cross culverts of adequate size (minimum eighteen inches in diameter) shall be provided to carry storm run-off under the roadway.

6. All cut and fill slopes shall be 1.5:1 or flatter; unless steeper slopes are determined feasible by a consultant engineer.– A fallout area may be necessary for any slope steeper than 1.5:1.

7. Adequate roadside ditches shall be provided to carry storm run-off.– Roadside ditches in excess of seven percent (7%) grade and in erodible soils shall be lined with suitable material to prevent erosion.

C. General Considerations

1. The Approving Authority, upon recommendation of the County Road ~~m~~**M**aster, may impose additional requirements as are reasonably necessary to provide a safe and adequate access.

2. Private roads shall be maintained by the benefited property owners and shall not be accepted by the County for maintenance.

D. Certification and Special Considerations

1. The County Road ~~m~~**M**aster may require the applicant to retain a consultant engineer to inspect his private road project. When the project is completed, that engineer shall certify to the County, in writing, that the project has been constructed in substantial conformance to the County's current improvement standards.

2. In the event an existing road is to be used for access to a land division, it shall be inspected by a consultant engineer retained by the applicant and, if found adequate for the intent and purposes of the private road requirements, shall be approved.

E. Signing:— Permanent traffic control and street or road identification signs will be required at the intersections of private roads with County maintained roads.

1. The applicant shall deposit (in cash) with the County Road ~~m~~**M**aster, an amount determined by the Director adequate to cover the costs of construction and installation of required permanent signing required.– Upon receiving said cash deposit, the County will prepare, place and maintain required permanent signing.

2. Temporary construction signing will be required on all streets and roads under construction which are being used by the public. Temporary construction signing shall be in conformance with the "Manual on Uniform Traffic Control Devices", as published by the Department of Transportation, Federal Highway Administration, and supplemented by State of Oregon "Standard Practice and Interpretations", and shall be furnished, installed, maintained and removed at the expense of the applicant.

SECTION 21.440 Roadway Improvement Standards

A. Roadway Requirements: No development shall occur unless the roadways adjacent to the development meet the standards of this section, unless the following applies:

1. A development may be approved if the adjacent roadway does not meet the standards but half-street improvements meeting the standards of this title are constructed adjacent to the development.

2. Roadways under the jurisdiction of the Oregon Department of Transportation shall be improved to state standards.

B. Minimum Right-of-Way Width - The width of street right-of-way provided in Table 1 shall be the minimum widths of rights-of-way for streets existing along and adjacent to any boundary of the subdivision or partition which is the natural or planned continuation of the alignment of the existing or proposed streets. Unless otherwise indicated on the official roadway map, the width of all rights-of-way and roadway improvements shall be in compliance with the following:

1. Arterials: A minimum right-of-way width of sixty (60) feet.

2. Collectors: A minimum right-of-way width of sixty (60) feet.

3. Local Roads: A minimum right-of-way width of fifty (50) feet.

C. Partial street improvements - Partial street improvements resulting in a pavement width of less than 16 feet; while generally not acceptable, may be approved where essential to reasonable development when in conformity with the other requirements of these regulations, and when it will be practical to require the improvement of the other half when the adjoining property developed.

D. Improvements Guarantee in Lieu of Improvements - If the County could and would otherwise require the applicant to provide street improvements, the County Road ~~m~~**M**aster may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist:

1. A partial improvement is not feasible due to the inability to achieve proper design standards;

2. A partial improvement may create a potential safety hazard to motorists or pedestrians;

3. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;

4. The improvement would be in conflict with an adopted capital improvement plan;

5. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets; or

6. Additional planning work is required to define the appropriate design standards for the street and the application is for a project which would contribute only a minor portion of the anticipated future traffic on the street.

E. Off-site Improvements - Off-site improvements, such as pavement construction or re-construction of existing street(s) proposed for access to the subdivision or partition, which are inadequate or in failing condition, may be required. Off-site transportation improvements will include bicycle and pedestrian improvements, as identified in the adopted Wasco County Transportation System Plan.

SECTION 21.450 Access Control

A. Purpose. The following access control standards apply to industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the Wasco County Transportation System Plan. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the county. Access management is a primary concern on these roads. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. The regulations in this section further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision or partitioning of land.

B. Access Control Standards.

1. Traffic Impact Analysis Requirements. The County or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also, Section 4.180 Traffic Impact Analysis.)

2. The County or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

3. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (a minimum of 10 feet per lane is required).

a. Option 1. Access to the lower order roadway.

b. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

c. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Subsection e., below.

4. Subdivisions and Partitions Fronting Onto an Arterial Street. New residential land divisions fronting onto an arterial street shall be required to provide secondary (local or collector) streets for access to individual lots.

5. Access Spacing. Minimum access spacing standards apply to newly established public street intersections, private drives, and non-traversable medians.

a. Standards are found in Table 7.2, Rural Wasco County Roadway Design Standards and Table 7-3 Urban Wasco County Roadway Design Standards, in the Wasco County Transportation System Plan.

b. Access to State Highways and Interchanges. Access to a transportation facility under the jurisdiction of the Oregon Department of Transportation (ODOT) shall be subject to the applicable standards and policies contained in the Oregon Highway Plan and the requirements of OAR 734-051.

6. Number of Access Points. For single-family housing types, one street access point is permitted per lot, when secondary (local or collector) street access cannot otherwise be provided. The number of street access points for commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection (g) below, in order to maintain the required access spacing, and minimize the number of access points.

7. Shared Driveways. The number of driveway and the frequency with which private streets intersect with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The County shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

a. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

c. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

C. Notwithstanding Section 21.450, upon the recommendation of the County Road ~~m~~**M**aster the County may reduce access spacing standards if the following conditions are met:

1. Joint access (shared) driveways and cross access easements are provided in accordance with the standards;

2. The site plan incorporates an integrated access and circulation system in accordance with the standards;

3. The property owner enters into a written agreement with the County that pre-existing connections on the site will be closed and eliminated after construction of each side of the shared driveway;

4. The proposed access plan for redevelopment properties moves in the direction of the spacing standards; and

5. The reduced access spacing is consistent with all applicable provisions of Chapter 14.

D. The County Road ~~m~~**M**aster may modify or waive the access spacing standards for roadways under County jurisdiction where the physical site characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical and would make meeting the access standards infeasible, subject to the following:

1. The application of the location of access standard will result in the degradation of operational and safety integrity of the transportation system.

2. The granting of the modification or waiver shall meet the purpose and intent of these standards and shall not be considered until every feasible option for meeting access standards is explored.

3. Applicants for modification or waivers from these standards must provide proof of unique or

special conditions that make strict application of the standards impractical.— Applicants shall include proof that:

a. Indirect or restricted access cannot be obtained;

b. No engineering or construction solutions can be applied to mitigate the condition;

c. No alternative access is available from a road with a lower functional classification than the primary roadway;

d. The hardship is not self-created; and

e. The modification or waiver is necessary to protect scenic, natural, cultural or recreation resources in Chapter 14 or is at a minimum consistent with the standards to project them.

E. Street/roadway Connectivity and Formation of Blocks Required.— In order to promote efficient vehicular and pedestrian circulation throughout the county, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private roads, in accordance with AASHTO design standards.— For residential and commercial developments, the maximum block length shall not exceed 600 feet, with the maximum perimeter not to exceed 1,400 feet.

SECTION 21.460– Pedestrian Access and Circulation

A. Site Layout and Design - To ensure safe, direct, and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system.– The pedestrian system shall be based on the standards in subsections 1-4, below:

1. Continuous Walkway System - The— pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets or roads and to private property with a previously reserved public access easement for this purpose, in accordance with the provisions of Section 21.030(E) (Relation to Adjoining Street System).

2. Safe, Direct, and Convenient - Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets/roadways, based on the following definitions:

a. Reasonably direct - A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

b. Safe and convenient - Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.

c. "Primary entrance" for commercial, mixed use, and office buildings is the main public

entrance to the building.— In the case where no public entrance exists, street/roadway connections shall be provided to the main employee entrance.

d. "Primary entrance" for residential buildings is the front door (i.e., facing the street or road). For multifamily buildings in which each unit does not have its own exterior entrance, the "primary entrance" may be a lobby, courtyard, or breezeway which serves as a common entrance for more than one dwelling.

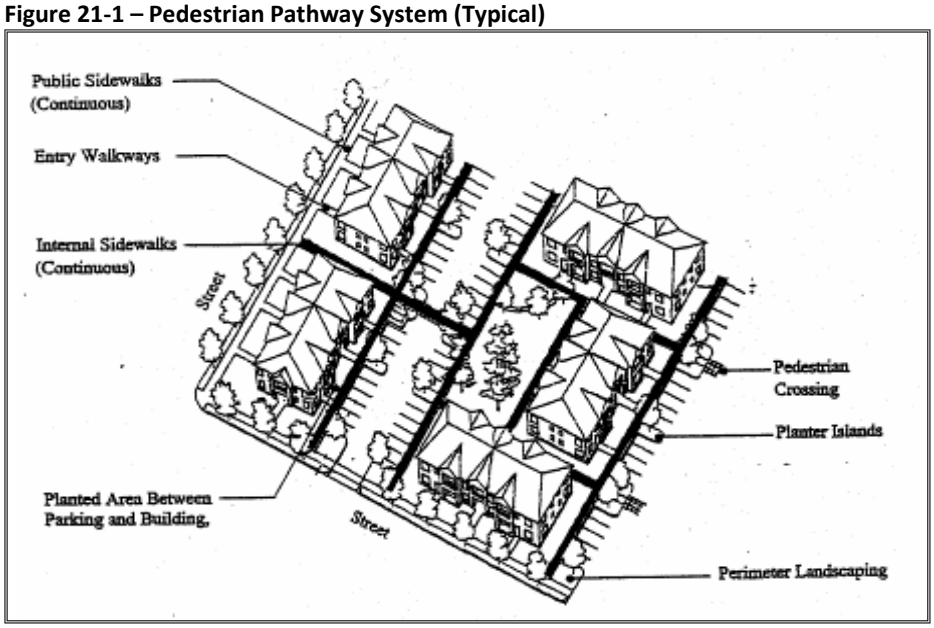
3. Connections Within Development - Connections within developments shall be provided as required in subsections a-c, below:

a. Walkways shall connect all building entrances to one another to the extent practicable, as generally shown in Figure 21-1;

a. Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections; and

c. Large parking areas shall be broken up so that no contiguous parking area exceeds three (3) acres or the space required for the maximum number of cars allowed by the applicable provisions of this ordinance. Parking areas may be broken up with plazas, large landscape areas with pedestrian access ways (*i.e.,* at least 20 feet total width), streets/roadways, or driveways with street-like features, Street-like features, for the purpose of this section, means a raised sidewalk of at least 4-feet in width, 6-inch curb, accessible curb ramps, street trees in planter strips or tree wells, and pedestrian-oriented lighting.— The parking areas shall be designed consistent with all applicable provisions of this ordinance including but not limited to Section 14.200 (Key Viewing Areas), 14.600 (Natural Resources) and 14.700 (Recreation Resources).

Figure 21-1 – Pedestrian Pathway System (Typical)



B. Walkway Design and Construction - Walkways, including those provided with pedestrian access ways, shall conform to all of the standards in subsections 1-4, as generally illustrated in Figure 21-2:

1. Vehicle/Walkway Separation.— Except for crosswalks (subsection 2), where a walkway abuts a driveway or street, it shall be raised 6 inches and curbed along the edge of the driveway/street. Alternatively, the Approving Authority may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or concrete bollards designed for withstand a vehicle's impact, with adequate minimum spacing between them to protect pedestrians.

2. Crosswalks - Where walkways cross a parking area, driveway, or street ("crosswalk"), they shall be clearly marked with contrasting paving materials (*e.g.,* light-color concrete inlay between asphalt), which may be part of a raised/hump crossing area. Painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crosswalks not exceeding 24 feet in length.

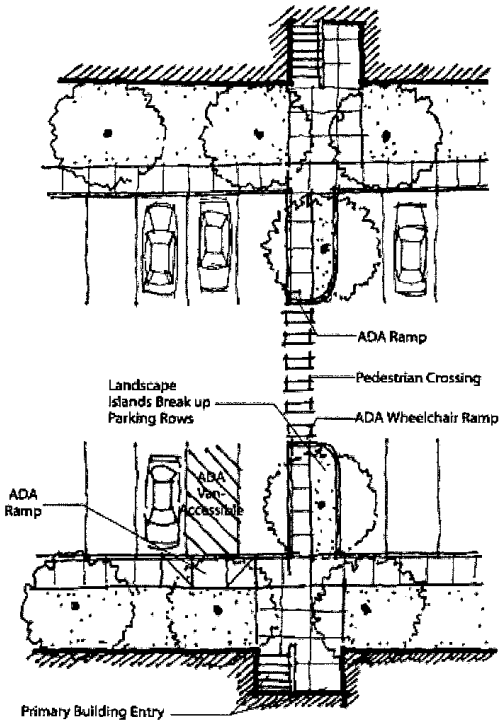


Figure 21-2 – Pedestrian Walkway Detail (Typical)

3. Walkway Width and Surface - Walkway and access way surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the Public Works Director, at least six (6) feet wide.— Multi-use paths (i.e., for bicycles and pedestrians) shall be concrete or asphalt, at least 10 feet wide.

4. Accessible Routes - Walkways shall comply with applicable Americans with Disabilities Act (ADA) requirements. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide direct routes to primary building entrances.

SECTION 21.470– Penalty and Enforcement on Violation

A. Violation of any provision of this Ordinance is punishable upon conviction under the provisions of ORS 92.990(1).

B. In addition to the criminal penalties provided for by subsection (1) of this Section, Wasco County may seek equitable relief for violations of this Chapter.

SECTION 21.480– Repeal and Transferal Provisions

A. The Wasco County Subdivision and Land Development Ordinance adopted February 3, 1982, is repealed upon the effective date of this Ordinance.

B. Actions approved under the provisions or regulations repealed by subsection (A) of this Section shall continue to be governed by the terms and conditions of such approval.

C. Violations of the provisions or regulations repealed by subsection (A) of this Section shall be deemed violations of this Chapter.

Table 21-1 – Rural Wasco County Public Roadway Design Standards

	Rural Local Roads									Rural Minor Collector			Rural Major Collector			Rural Arterial		
	Unpaved			Unpaved			Paved			Paved			Paved			Paved		
Design ADT	<25			25-250			25-250			250-400			400 – 2,000			>2,000		
Terrain[1]	L	R	M	L	R	M	L	R	M	L	R	M	L	R	M	L	R	M
Design Speed (mph)	30	30	20	30	30	20	30	30	20	40	30	20	50	40	30	60	50	40
Max Grade (%)	7	10	12	7	10	12	7	10	12	7	9	12	6	8	10	3	4	8
Stopping Sight Distance (ft)	220	235	135	220	235	135	220	235	135	340	230	135	475	350	235	600	610	350
Passing Sight Distance (ft)	-	-	-	-	-	-	1,090	[2]	[2]	1,470	[2]	[2]	1,835	[2]	[2]	2,135	[2]	[2]
Traveled Way Width (ft)	18	18	18	22	22	22	22	22	22	22	22	22	24	24	24	24	24	24
Paved Shoulder Width (each side)																		
- Non Bike Route	-	-	-	-	-	-	-	-	-	1	1	1	1	1	1	2	2	2
- Bike Route (ft)	-	-	-	-	-	-	-	-	-	2	2	2	5	5	5	6	6	6
Gravel Shoulder Width (each side)	-	-	-	-	-	-	2	2	2	2	2	2	2	2	2	2	2	2
Roadway Width (Non Bike / Bike Route) (ft)	18	18	18	22	22	22	26	26	26	28 30	28 30	28 30	30 38	30 38	30 38	32 40	32 40	32 40
Number of Lanes	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Minimum ROW Width (ft)	50	50	50	50	50	50	50	50	50	60	60	60	60	60	60	60	60	60
Preferred Access Spacing[3]	75			100			100			150			300			500		

[1] L= Level, R=Rolling, M=Mountainous

[2] See AASHTO manual for guidance.

[3] Lower spacing may be allowed when supported by a traffic study and/or approved by the County Engineer.

Table 21-2 – Urban Wasco County Public Roadway Design Standards

	Local Street	Urban Minor Collector	Urban Major Collector	Urban Arterial
Design ADT	<1,000	1,000-3,000	3,000–6,000	>6,000
Design Speed (mph)	25	25-30	25-35	25-35
Max Grade	12%	10%	10%	6%
Minimum ROW Width (ft)	58	64	63-76	90
Number and Width of Lanes	2 12' Travel Lanes	2 12' Travel Lanes	2 12' Travel Lanes	3 Two 12' Travel Lanes 14' Center Turn Lane
Traveled Way Width (ft)	36	40	52	50 or 66
On-Street Parking (ft)	Not striped	8 (each side)	8 (each side)	8 (each side), optional
Sidewalk Width (ft)	5 (each side)	5 (each side)	5 (each side)	5 (each side)
Bike Lane Width (ft)	-	-	6	6
***Preferred Access Spacing (ft)**	50	150-300	150-300	300-600

Note: The urban roadway design standards apply to all County roadways in urban areas (incorporated communities). However, local roadway design standards may be utilized when deemed appropriate.
*Lower spacing may be allowed when supported by a traffic study and/or approved by the local jurisdiction

Table 21-3 – Private Access Standards

Location in Zones	Designation	Responsibilities for Maintenance	Minimum Improvements Standards	Minimum Width of Easement	Maximum Number of Lots, Parcels or Units of Land
All Zones	Driveway	Property Owners	Fire Safety Standards	No Easement Required	One
All Zones	Private Easement Road	Property Owners	Fire Safety Standards	30 Feet	Three (3) provided the service to additional lots parcels or units of land is improbable
Non-Residential Zones Only (A-1, A-2, F-1, F-3, AS, PR OS)	Private Road	Property Owners	*Improve with minimum of four inches (4") of base rock	*30 Feet with 12 feet of travel surface.	Ten (10) provided that no more than three (3) lots are less than ten (10) acres in size and the primary use is resource related.

*See Section 21.420 for complete standards.

Figure 21-3 – Hierarchy of Property Access (See Figures 21-4 – 21-7 Below)

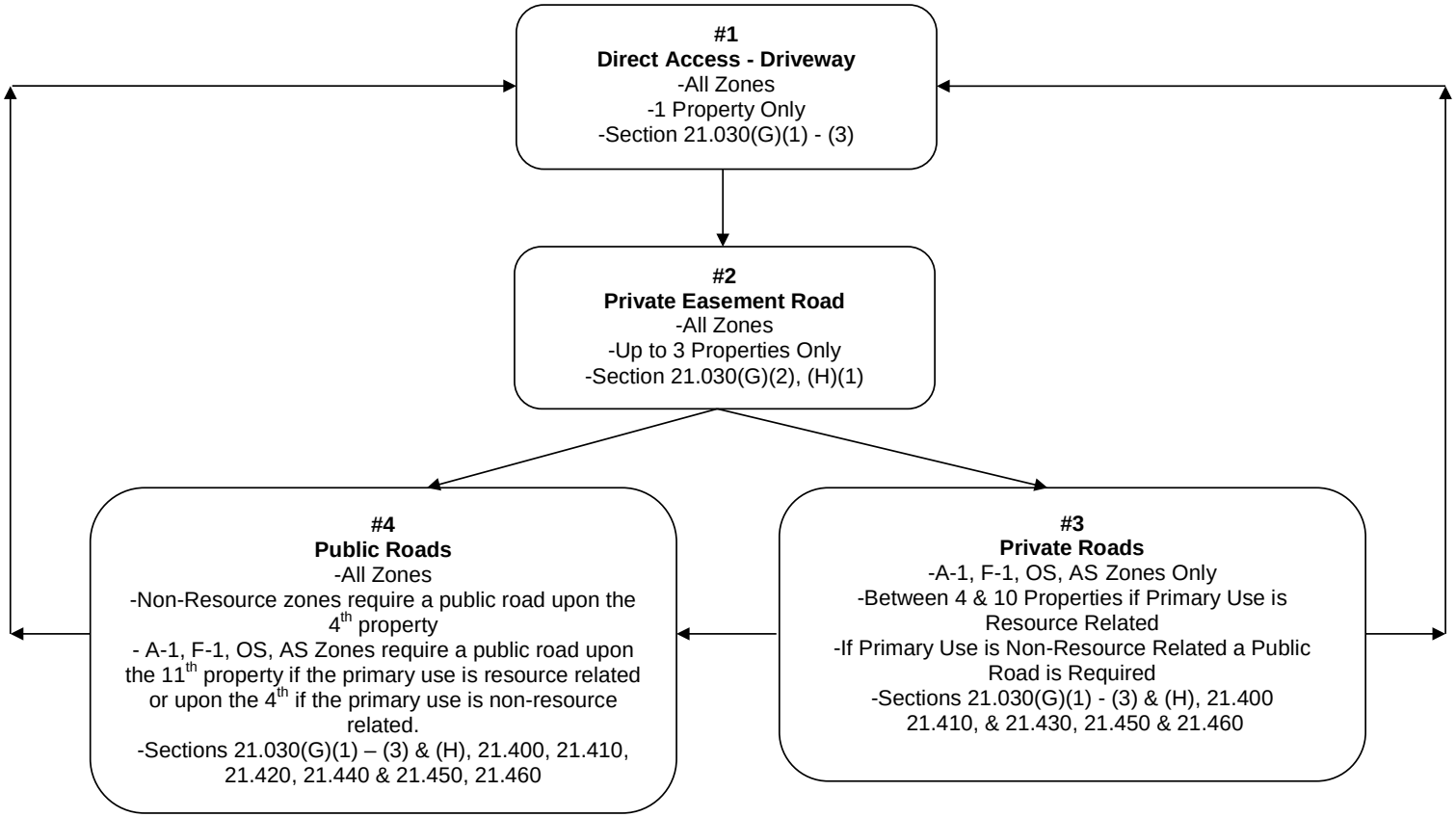


Figure 21-4 – Direct Access via a "Public Road" or "Private Road" (Driveway). In all zones, a single property is considered to have direct access via a "Public Road" or "Private Road" if the property intersects a lawfully established "Public Road" or "Private Road" and has a legal right to enter and exit the "Public Road" or "Private" road.

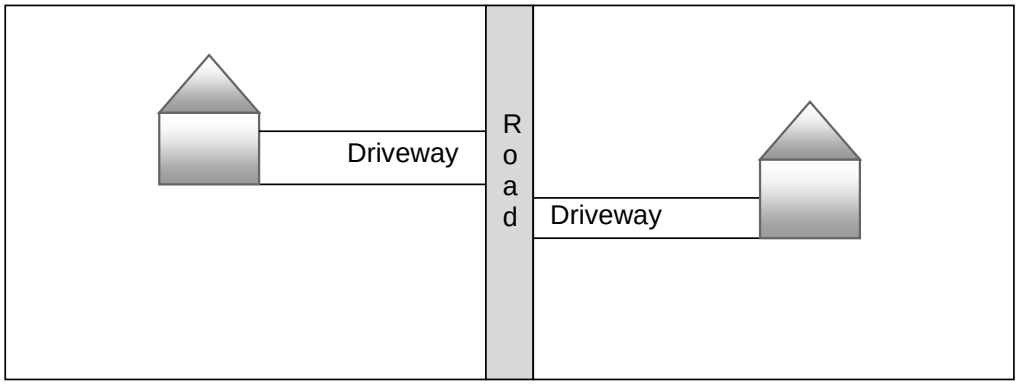


Figure 21-5 – Private Easement Road. In all zones, up to but not exceeding 3 properties may have their primary access by way of a "Private Easement Road". Upon the fourth, it must become "Public Road" or "Private Road" depending on the zone and the primary use of the properties.



Figure 21-6 – Private Road.– In A-1, F-1, OS, AS zones only, between 4 and 10 properties may have their primary access via a "Private Road" if the primary use of the properties is resource related.– If the primary purpose is residential the access shall become a "Public Road" upon the 4th property using it as its primary access.

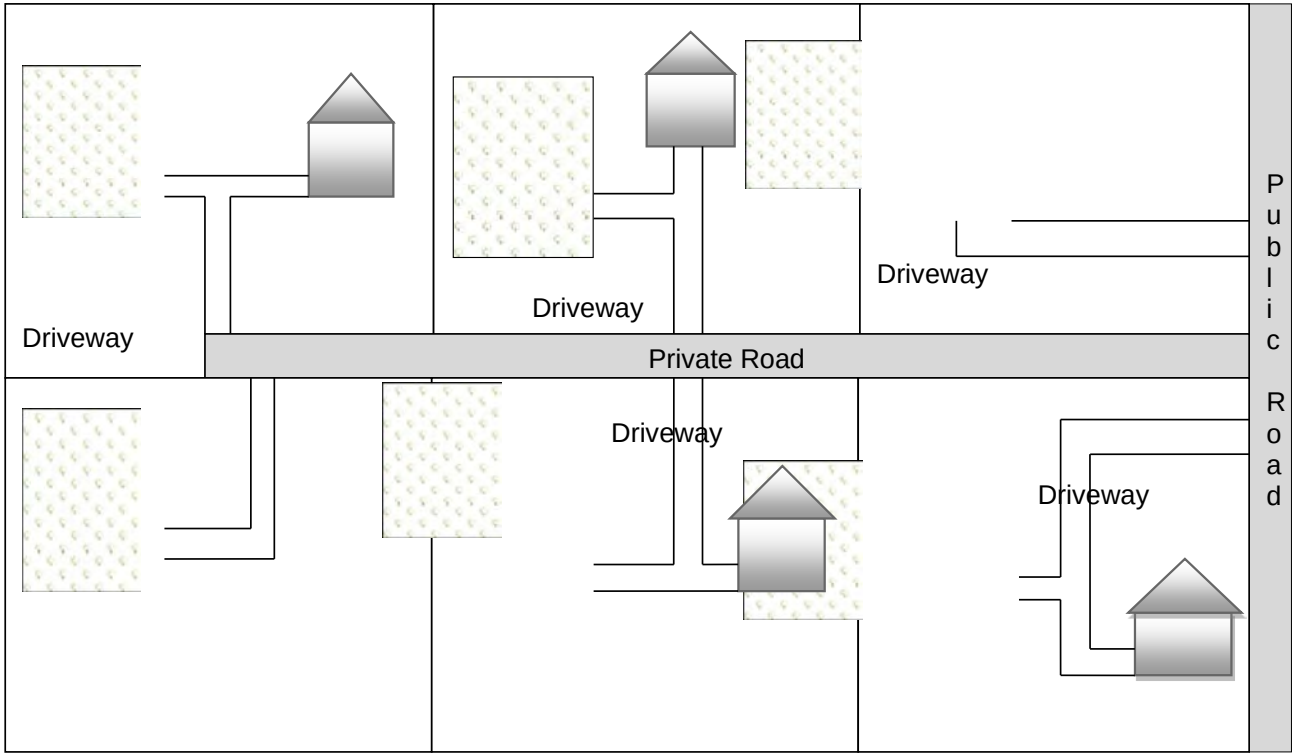
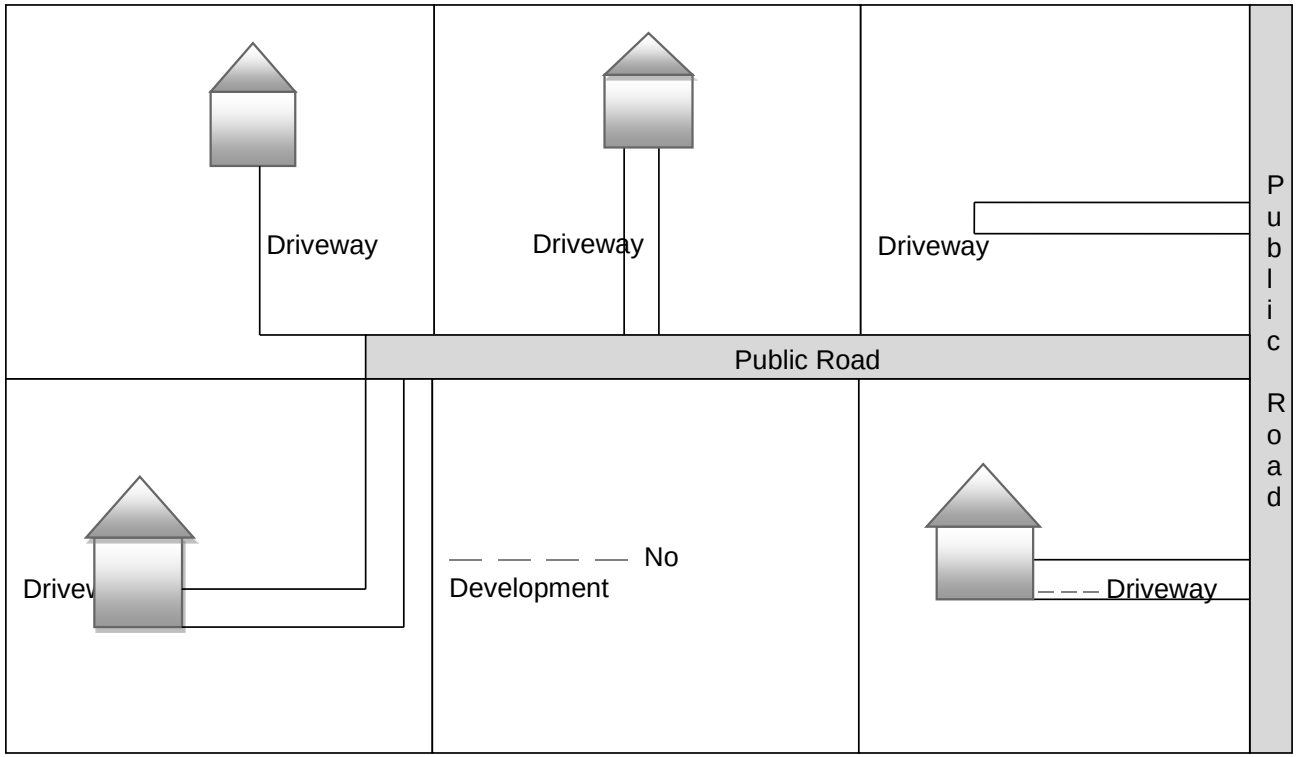


Figure 21-7 – Public Road.— In non-resource zones an access shall become a "Public Road" if it provides primary access to more than 3 properties.— In A-1, F-1, OS, AS Zones an access shall become a "Public Road" upon the 11th property if the primary use is resource related or upon the 4th if the primary use is non-resource related.— There are no limitations to the number of properties having their primary access via a publicly dedicated road.



DETAILED TABLE OF CONTENTS

CHAPTER 22

[Reserved for Future Expansion]

Chapter 22-Reserved for Future Expansion

DETAILED TABLE OF CONTENTS

CHAPTER 23– SIGN PROVISIONS

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23.030	SIGNS - SPECIAL MANAGEMENT AREA	23-2

CHAPTER 23– SIGN PROVISIONS

Section 23.010– Purpose

A. Protect and enhance scenic resources by minimizing visual impacts of signage, while authorizing signage necessary for commerce, recreation, safety and public information.

B. Encourage the use of the Columbia River Gorge National Scenic Area Graphic Signing System for public signs in and adjacent to public rights-of-way.

Section 23.020– Signs (GMA Only)

A. Except for signs allowed without review pursuant to Sections 3.100 and 3.180(B), all new signs must meet the following standards unless these guidelines conflict with the Manual **on** ~~for~~ Uniform Traffic Control Devices for public safety, traffic control or highway construction signs.– In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these guidelines.

1. The support structure shall be unobtrusive and have low visual impact.

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

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

4. Spot lighting of signs may be allowed where needed for night visibility.— Backlighting is not permitted for signs.

5. Except for signs along public highways necessary for public safety, traffic control, or road construction and consistent with the Manual **on** ~~for~~ Uniform Traffic Control Devices, the following signs are prohibited:

a. Luminous signs or those with intermittent or flashing lights.— These include neon signs, fluorescent signs, light displays, and other signs that are internally illuminated, exclusive of seasonal holiday light displays.

b. New billboards.

c. Signs with moving elements.

d. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

6.– In addition to 1-5, signs shall meet the below guidelines according to Recreation Intensity Class, and subject to compliance Approval Criteria for Recreation Uses and Facility Design Guidelines for All Recreation Projects:

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

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

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

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

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

B. Any sign which does not conform with a provision of these guidelines and has existed prior to their adoption is subject to the following provisions.

1. Alteration of existing nonconforming signs shall comply with these standards.

2. Any nonconforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

Section 23.030 Signs (SMA Only)

A. All public signs subject to review located in SMA, must be designed and located in compliance with the standards described in the Columbia River Gorge National Scenic Area Graphic Signing System and conform to the Manual for Uniform Traffic Control Devices standards.

B. New signs shall meet the minimum provisions of these standards in all cases where these provisions do not conflict with other regulations intended for public safety and information.

C. All signs shall meet the following standards:

1. New signs shall be allowed as specified in the applicable land use designations.

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

3. Pre-existing signs are allowed to continue provided no changes occur in size, structure, color or message.

4. Except for signs allowed without review pursuant to Section 3.100 and 3.180(B) all new signs shall meet the following guidelines, and be consistent with the Manual for Uniform Traffic Control Devices:

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

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

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

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

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

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

g. Backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.

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

5. Public signs shall meet the following standards in addition to standards C(1) through C(4).

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

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

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

6. Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to standards C(1) through C(4) and C(7).

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

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

c. Off-site and on-site directional signs on approach roads to recreational facilities may be

permitted.— Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

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

e. Recreation developments may be permitted one ~~on-premise~~**on premise** name sign at each principal entrance.— Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Sign System.

7. Prohibited Signs

a. Billboards.

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

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

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

This letter is to notify you that Wasco County has proposed land use regulations that may affect the permissible uses of your property and other properties.

By requirement of the Columbia River Gorge Commission, Wasco County has proposed Ordinance 21-003. On September 7, 2021, The Planning Commission will hold a public hearing on the National Scenic Area Land Use and Development Ordinance (LUDO) updates described below to be followed by Board of County Commissioners hearings on October 20 and November 3. Wasco County has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property. Ordinance Number 21-003 is available for inspection at the Planning Department at 2705 E 2nd Street, The Dalles, OR 97058. A hard copy of Ordinance Number 21-003 can be purchased at a cost of $.25 per page. The Ordinance, revised LUDO, one sheet summary, and more information are available on the County website. For additional information concerning Ordinance Number 21-003, you may call the Wasco County Planning Department at 541-506-2560 or email kellyg@co.wasco.or.us. **The above language is required by state law**. **To understand all the proposed changes and the potential impacts, we recommend reading a draft of the revisions at the link below or available on request**.

The Columbia River Gorge Commission adopted an update to the National Scenic Area Management Plan in October 2020. This update was transmitted to Wasco County in March 2021 to be incorporated into the Wasco County National Scenic Area Land Use and Development Ordinance by December 2021. **These changes are mandatory.**

While the changes include many updates, there are several critical updates Wasco County would like you to be aware of that could impact the use and value of your property. We recommend reading through the revised draft here: https://www.co.wasco.or.us/departments/planning/long_range/gorge_2020_comments.php but have prepared a summary overview of the substantive changes that may affect the permissible uses and value of your property.

The proposed, revised National Scenic Area LUDO:

- Eliminates cluster developments from all zones
- Eliminates cottage industries and replaces with home occupation
- Prohibits approval of a variance from setbacks and buffers within the General Management Area (GMA) for additions
- Adds new standards for approval of renewal energy systems
- Removes allowance for dwellings in the Industrial Forest (F-1) Zone
- Requires primary dwelling, to be used for a temporary hardship dwelling, to have been in continuance use
- Limits life estates from all forest zones
- Requires new cultivation demonstrate sufficient water availability
- Increases the requirement in annual income for farm dwellings to $80k/year
- Expands winery provisions to allow for cideries
- Adds a new requirement for outdoor lighting to be limited in intensity
- Eliminates variance for new buildings or alterations for structures existing prior to 1976
- Requires local government to require additional vegetative screening after five years if approved vegetation is insufficient
- Removes ability to expand existing quarries and new production of mineral resources within three miles of Key Viewing Areas
- Expands allowances for products at farm stands to include up to 25% incidentals to farm products
- New standards for roads not in conjunction with farm and forest use/practices
- Requires Oregon white oak not be removed if practicable alternatives exist
- Development must achieve no loss of wetland acreage and functions
- Expansion of existing development must be compatible with scale of similar, nearby buildings

- New urban area boundary policies that only allow for an expansion up to 20 acres
- Requires mass transit facilities for Recreation Intensity Class 3 day use sites
- Changes the definition of legally established to require it have been in continuance, lawful use

The revised draft also includes a variety of other modifications to the process, terms, or allowances that, while not anticipated to have an impact on the uses/values of property, are important to be aware of. This includes:

- Requires applicants to pay for all required reconnaissance or historic surveys
- Requires cultural survey for proposed uses within 100 foot high probability area buffer
- Requires a complete site plan, to include the actual proposed development site
- Changes the map submittal requirements for mineral resources
- Provides new guidance on key viewing areas and visual subordinance
- Requires the County to share FIrewise principles with all development applicants

In addition to the changes outlined above, there are numerous changes to terms, references and format which are best understood through reading the annotated draft available here:
https://www.co.wasco.or.us/departments/planning/long_range/gorge_2020_comments.php

These changes are all required by the Columbia River Gorge Commission. Wasco County only has the ability to be more restrictive than the Management Plan, not less.

We invite your participation at the following public meetings:

Planning Commission Hearing
September 7th, 2021
3-6pm

Board of County Commissioners Hearing
October 20, 2021
9:30 AM

Board of County Commissioners Hearing
November 3, 2021
9:30 AM

These hearings will be paired with an update to the non-National Scenic Area Land Use and Development Ordinance, so please check the County website for an updated agenda as well as meeting access information closer to hearing dates.

If approved by the Board of County Commissioners, the revised National Scenic Area Land Use and Development Ordinance will advance to the Columbia River Gorge Commission for approval after November. A date for that hearing has yet to be determined.

If you need a translation service or other accommodation, please contact staff at wcplanning@co.wasco.or.us.

Si necesita este aviso en español, por favor envíe un correo electrónico kellyg@co.wasco.or.us .

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE WASCO COUNTY PLANNING COMMISSION'S REQUEST TO APPROVE PROPOSED LEGISLATIVE AMENDMENTS TO UPDATE THE WASCO COUNTY NATIONAL SCENIC AREA LAND USE AND DEVELOPMENT ORDINANCE

ORDINANCE # 21-003

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board of Commissioners being present; and

WHEREAS, the Columbia River Gorge Commission transmitted approved updates to the National Scenic Area Management Plan to Wasco County for adoption into the Wasco County National Scenic Area Land Use and Development Ordinance on March 16, 2021; and

WHEREAS, the revisions included many mandatory changes; and

WHEREAS, the Wasco County Board of County Commissioners held board sessions in April and May 2021 to determine whether Wasco County would continue to implement the National Scenic Area; and

WHEREAS, on May 5, 2021 the Board of County Commissioners votes unanimously to retain the Wasco County National Scenic Area and incorporate changes from the Gorge 2020 Management Plan Update; and

WHEREAS, revisions to the Wasco County National Scenic Area Land Use and Development Ordinance were to make the language consistent with the adopted National Scenic Area Management Plan; and

WHEREAS, the Wasco County Planning Department sent notification to DLCD pursuant to ORS 197.610 on August 3, 2021; and

WHEREAS, all property owners within the National Scenic Area in Wasco County were sent notice of proposed revisions on August 16, 2021 consistent with ORS 215.503; and

WHEREAS, that on September 7, 2021, at the hour of 3:00 PM via electronic methods duly posted Wasco County Planning Commission held the first legally notified public hearing to review recommendations by staff background information, and receive public testimony on the revisions and with a vote of 5 to 1 recommended approval to the Wasco County Board of Commissioners; and

WHEREAS, that on October 20, 2021 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the first of two legally notified public hearings on the above matter. The Board of County Commissioners reviewed recommendations by the Wasco County Planning Commission, staff's presentation, and received testimony from the public. The Board of County Commissioners tentatively approved the amendments; and

WHEREAS, that on November 3, 2021 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the second of two legally notified public hearings on the above matter. The Board of County Commissioners reviewed recommendations by the Wasco County Planning Commission, staff's presentation, and received testimony from the public. The Board of County Commissioners , by a vote of __ to __, approved the amendments and conducted the second reading, recommending submittal to the Columbia River Gorge Commission; and

NOW, THEREFORE, IT IS HEREBY ORDERED: That the request by the Wasco County Planning Department for a legislative amendment to the Wasco County National Scenic Area Land Use and Development Ordinance are hereby approved; and

WHEREAS, Pursuant to the National Scenic Area Act, submission of a completed update to the National Scenic Area Land Use and Development are required to be approved by the Columbia River Gorge Commission;

WHEREAS, Pursuant to Oregon Revised Statute 197.615, submission of adopted land use regulation change is required to be sent to the Department of Land Conservation and Development for acknowledgment, and once updates are acknowledged they will be effective.

DATED this 3rd day of November 2021.

APPROVED AS TO FORM:

_____

_____,County Counsel

WASCO COUNTY BOARD OF COMMISSIONERS:

_____,

Scott Hege, Commission Chair

ATTEST:

_____

Steve D. Kramer, County Commissioner

_____

Kathy Clark, Executive Assistant

_____,

Kathy Schwartz, County Commissioner



Planning Department

National Scenic Area Land Use and Development Ordinance Update

Board of County Commissioners Agenda Packet
October 20, 2021

Reasons for Update

- Gorge 2020 Management Plan Update
- National Scenic Area Act requires an update every decade. This update was to fulfill that requirement
- The National Scenic Area Act requires Wasco County, in order to implement the program, to update our local ordinance with all mandatory changes

Revision Summary

- Staff focused on mandatory updates only
- Optional updates for future:
  - Columbia River Gorge Commission's completion DEI
  - and Climate Change work
  - Short Term Rentals
  - Policies related to light intensity, available water reviews for new cultivation
  - Clarifying some problematic new language

Revision Summary

Removal of several permitted uses including:

- Eliminates cluster developments from all zones
- Eliminates cottage industries and replaces with home occupation
- Removes allowance for dwellings in the Industrial Forest (F-1) Zone
- Limits life estates from all forest zones

Limits uses:

- Removes ability to expand existing quarries and new production of mineral resources within three miles of Key Viewing Areas
- Development must achieve no loss of wetland acreage and functions
- Expansion of existing development must be compatible with scale of similar, nearby buildings

Removes variances/modifications:

- Prohibits approval of a variance from setbacks and buffers within the General Management Area (GMA) for additions
- Eliminates variance for new buildings or alterations for structures existing prior to 1986

Revision Summary

Adds new requirements:

- Adds new standards for approval of renewal energy systems
- Requires primary dwelling, to be used for a temporary hardship dwelling, to have been in continuance use
- Requires new cultivation demonstrate sufficient water availability
- Increases the requirement in annual income for farm dwellings to $80k/year
- Adds a new requirement for outdoor lighting to be limited in intensity
- Requires local government to require additional vegetative screening after five years if approved vegetation is insufficient
- New standards for roads not in conjunction with farm and forest use/practices
- Requires Oregon white oak not be removed if practicable alternatives exist
- Requires mass transit facilities for Recreation Intensity Class 3 day use sites
- Changes the definition of legally established to require it have been in continuance, lawful use

Revision Summary

Adds new uses:

- Expands winery provisions to allow for cideries

Adds new allowances:

- Expands allowances for products at farm stands to include up to 25% incidentals to farm products

Reduces potential urban area growth:

- New urban area boundary policies that only allow for an expansion up to 20 acres

Compels new procedural requirements:

- Requires applicants to pay for all required reconnaissance or historic surveys
- Requires cultural survey for proposed uses within 100 foot high probability area buffer
- Requires a complete site plan, to include the actual proposed development site
- Changes the map submittal requirements for mineral resources
- Provides new guidance on key viewing areas and visual subordinance
- Requires the County to share Firewise principles with all development applicants

Next Steps

Final Board of County Commissioner Hearing November 3rd

Transmit to the Columbia River Gorge Commission in December.

AGENDA ITEM

Helion BOPTA Module Agreements

- STAFF MEMO
- PERSONAL SERVICES CONTRACT
- SOFTWARE LICENSE
- SUPPORT CONTRACT
- MOTION LANGUAGE

MEMORANDUM

SUBJECT: Agreement for Use of Helion's Board of Property Tax Appeals Module

TO: BOARD OF COUNTY COMMISSIONERS

FROM: LISA GAMBEE, WASCO COUNTY CLERK

DATE: 10/11/2021

SUMMARY

Pursuant to ORS 309.020, the Clerk's Office is responsible for managing Wasco County's Board of Property Tax Appeals (BOPTA) process. The appeals process begins when tax statements are mailed, and typically concludes in March when the Summary of Actions is sent to the Department of Revenue.

The process is managed internally by the Wasco County Clerk and the Chief Deputy Clerk and requires tracking and reporting of roughly 20 applications annually. Each account requires intake, review of assessment values for accuracy, Notice of Hearing, report generation for hearing records and real property orders. Much of this work coincides with either the May Primary election or the May Special District Election; this year it will also coincide with redistricting.

Helion Software Inc., the vendor who provides Wasco County's deed recording software, offers a software module to assist counties with managing the BOPTA appeals process. The Clerk's Office, in conjunction with Information Services Director Andrew Burke, reviewed the module capabilities through an online demonstration. The module is easy to integrate with Wasco County data, and provides access to the Assessor's Office as well so all members of the BOPTA process can review data/appeals at any time. Data that is pulled into the system once can then populate all reports needed without requiring additional manual entry, a time-consuming part of the BOPTA process.

The pricing structure and contracts were reviewed with Finance Director Mike Middleton, Information Services Director Andrew Burke and County Counsel Kristen Campbell. The agreement has three main components:

1. A one-time Software License at $3500
2. A one-time Contract for Personal Services at $1750 for training and installation
3. A yearly Client Software Support Services Contract at $1500, with an annual cost adjustment (based on an increase in the Consumer Price Index Rate)

The Clerk's Office reviewed budget availability with Mike Middleton, who was comfortable with our department's ability to support the one-time and ongoing costs within our budget.

The Clerk's Office continues to pursue ways to increase our efficiency and accuracy in serving the citizens of Wasco County; this purchase directly supports those efforts. We request approval of the Wasco County Board of Commissioners for purchase of this software module, and are happy to answer any additional questions you might have.

CONTRACT FOR PERSONAL SERVICES

This Agreement for Personal Services ("Agreement") is made and entered into by and between Wasco County, a political subdivision of the State of Oregon, hereinafter referred to as "County" and Helion Software, Inc., a computer consulting firm, hereinafter referred to as "Contractor."

RECITALS

A. County requires the services of a computer programming consulting firm with the unique and particular training, abilities, knowledge, qualifications, resources and experience to provide computer services, including training and technical support, to County.

B. Contractor possesses such training, abilities, knowledge, qualifications and experience and is willing to perform the services for County as set forth herein; and

C. County does not seek to hire Contractor as an employee(s) of County, nor does Contractor desire to be an employee(s) of County for performance of the services described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions set forth herein, it is hereby agreed as follows:

1. **Services to be Provided.** Contractor shall provide to County comprehensive computer services as specified in "Exhibit A," attached hereto and by reference incorporated herein ("Services").

2. **Term of Agreement.** The term of this Agreement begins on November 1, 2021 and terminating on June 30, 2022, unless earlier terminated as provided herein. Contractor and County may, by mutual agreement in writing, extend the term of this Agreement.

3. **Compensation.** As compensation for the Services described in Exhibit A, County shall pay to Contractor the following amounts:
    a. $1,750 for installation, training and go-live support pursuant to the following payment schedule:
        i. 12/1/2021 $1,750
    b. Any other consulting services as requested at a rate of $150 per hour.

4. **Contract Administrator.** Unless otherwise directed by motion or resolution of the Wasco County Board of Commissioners, the Wasco County Clerk shall be the primary liaison between Contractor and Wasco County. In this capacity, the Wasco County Clerk shall act as Contract Administrator under this Agreement and shall conduct such reviews and evaluations as he/she may deem appropriate to facilitate the administration of prompt, professional and cost-effective computer services.

5. **Independent Contractor's Responsibility for Taxes and Withholding.** The compensation provided herein shall be exclusive and County shall neither pay nor provide Contractor with any fringe benefits, including, but not limited to, retirement, health insurance, workers' compensation insurance, unemployment insurance or sick leave. No additional compensation or alternate form thereof shall be payable by County to Contractor for any purpose whatsoever unless otherwise agreed in writing. Contractor shall be responsible for paying all income taxes, Social Security or self-employment taxes and any other taxes or assessments imposed by any governmental body incurred by reason of County's payment of compensation hereunder to Contractor.

6. **Subcontracts.** This Agreement is personal as to Contractor, and Contractor may not subcontract any portion of the Services to be performed hereunder without the prior written approval of County; provided, nothing herein shall prohibit any other computer consultants employed by Contractor or in a firm of which he shall be a member to assist Contractor in carrying out the responsibilities herein.

7. **Assignments.** Contractor shall not assign, delegate or transfer any of its rights or obligations under this Agreement without County's prior written consent. County's written consent does not relieve Contractor of any obligations under this Agreement, and any assignee, transferee, or delegate is considered Contractor's agent.

8. **Independent Contractor's Outside Employment/Services.** Contractor may, during the term of this agreement, work for or be employed by any other person or entity, subject to the terms set forth in Section 9, provided that such employment or work shall not impair or in any way compromise Contractor's performance of Services to the County required under this Agreement.

9. **Conflicts of Interest.** Contractor shall not, at any time during the term of this agreement, be employed by or perform computer consulting for another party or client when to do so would conflict in any manner or degree with the performance of services to County hereunder. This prohibition on conflicts of interest shall extend to Contractor and to any employee of Contractor and/or sub-contractor.

10. **Independent Contractor Status.** It is understood and agreed that the Contractor, while performing services pursuant to this Agreement, is at all times acting and performing as an independent contractor and not as an employee of the County. The manner and means of providing the agreed upon services under this Agreement are under the sole control of the Contractor; provided however, the County may: (1) determine and modify the delivery schedule for the work to be performed under this Agreement; and (2) evaluate the quality of the completed performance. The Contractor is responsible for determining the appropriate means and manner of performing any of the services required under this Agreement. The Contractor certifies, represents and warrants that the Contractor is an independent contractor of the County under all applicable state and federal law. The Contractor is not an "officer," "employee," or "agent" of the County as those terms are used in ORS 30.265.

11. **Representations, Warranties, and Covenants.** Contractor represents, warrants, and covenants tot the County as follows:

    a. Contractor has the power and authority to enter into and perform this Agreement.

    b. This Agreement, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.

    c. Contractor shall be responsible for and has obtained or shall obtain and maintain all necessary professional licenses and professional liability insurance, as required by law.

    d. If Contractor is a subject employer for workers' compensation or unemployment insurance purposes, Contractor shall provide such workers' compensation and unemployment coverage benefits at its sole cost and expense and shall provide proof of such insurance and benefits at County's request.

    e. Contractor represents that it has filed federal and state income tax returns (a) in its business name; or (b) on a business Schedule C as part of its personal income tax returns, if Contractor provided computer consulting services as any independent contractor during the previous calendar year and/or will file such returns for the years covered by this Agreement. Contractor further represents that Contractor is compliant with all tax laws of this state, including but not limited to ORS Chapters 316, 317 and 318 and that Contractor is compliant with any tax provisions imposed by a political subdivision of this state that apply to Contractor.

f. County has relied upon the professional ability, qualifications and training of Contractor as a material inducement to enter into this agreement. Contractor warrants that all of its services will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release of any claim.

g. Contractor warrants that any goods, software, intellectual property rights, hardware, etc. delivered to County under this Agreement, and Contractor's Services rendered in the performance Contractor's obligations under this Agreement, shall be provided to County free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment and shall be free and clear of any and liens, claims mortgages, security interests, liabilities, charges, and encumbrances of any kind.

12. **Independent Contractor Certification.** Contractor represents and certifies that the services to be provided under this contract are held out to the public as provided by an independent established business and that Contractor meets the standards for an "independent contractor" as defined in ORS 670.600. To that end, Contractor represents that at least four of the following apply to Contractor's business (*indicate those that apply*):

_X_ (a) The services are primarily carried out at a location that is separate from the residence of the individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, set aside as the location of the business;

_X_ (b) Commercial advertising or business cards, as customary in operating similar businesses, are purchased for Contractor's business or Contractor has a trade association membership;

_X_ (c) Contractor maintains telephone listing and service that is separate from his personal residence listing and service used by an individual who performs Contractor's labor or services;

____ (d) Contractor performs labor or services only pursuant to written contract;

_X_ (e) Contractor performs labor or services for two or more different persons annually;

_X_ (f) Contractor assumes financial responsibility for defective workmanship or general liability insurance relating to the services to be provided.

13. **Indemnification.** Contractor shall defend, indemnify and hold harmless the County, its officers, agents and employees from any claims, liabilities, demands, damages, actions or proceeding arising from or relating to the negligence, wrongful acts, or omissions of Contractor in connection with the performance of any of the Services under this Agreement. Contractor shall not be responsible for claims caused by the negligence or other wrongful acts of omissions of County or its officers, employees, or agents. Contractor shall not be deemed an agent of County under Oregon Tort Claims Act, ORS 30.265.

14. **Insurance.**

i. Professional Liability Insurance. Contractor shall maintain Professional Liability insurance with a combined single limit, or the equivalent, of not less than $2,000,000 for each claim, incident or occurrence and $4,000,000.00 in the aggregate. This is to cover damages caused by error, omission or negligent acts related to Contractor's professional Services to be provided under this Agreement.

ii. General Liability Insurance. Contractor shall maintain General Liability insurance with a combined single limit, or the equivalent, of not less than $2,000,000 for each occurrence and $4,000,000.00 in the aggregate for Bodily Injury and Property Damage.

It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the County, its officers and its employees are Additional Insureds but only with respect to the Contractor's services to be provided under this Contract.

15. Notices. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

WASCO COUNTY: Attn: Lisa Gambee
County Clerk
Wasco County Clerk's Office
511 Washington Street, Suite 201
The Dalles, OR 97058

CONTRACTOR: Helion Software, Inc.
Attn: Murray Giesbrecht
P.O. Box 3506
Salem, OR 97302

16. **Termination.**
    a. At any time and without cause, County shall have the right in its sole discretion, to terminate this agreement by giving 45-day prior written notice to Contractor. If County terminates this Agreement pursuant to this Section, it shall pay Contractor for services rendered to the date of termination. At any time and without cause, Contractor shall have the right in its sole discretion, to terminate this agreement by giving 45-day prior written notice to County.

    b. In the event the County reduces, changes, eliminates, or otherwise modifies the funding for this Agreement, or if funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, the County may terminate this Agreement, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, and Contractor agrees to abide by any such decision.

    c. This agreement may be terminated by County without advance notice if: (1) Contractor willfully and repeatedly fails or refuses to comply with the policies, rules, regulations and standards established by County which are communicated to Contractor; (2) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Agreement; and/or (3) Contractor fails to perform its obligations under this Agreement within the time specified or any extension of that time, and Contractor fails to cure the breach within fourteen (14) calendar days after the County delivers notice to Contractor.

17. **Remedies.**
    a. County's Remedies. If Contractor is in breach of any of the obligations set forth in this Agreement, County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages. County may pursue any or all of the remedies available under this Agreement and at law or in equity, including: (1) withholding payment of all amounts in Contractor's invoices for Services that Contractor has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively; (2) initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief; or (3) exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor in an amount equal to County's setoff right.

    b. Contractor's Remedies. If County is in breach of this Agreement, Contractor's sole remedy is one of the following, as applicable: (1) for services compensable on an hourly basis, a claim against

County for unpaid invoices, hours worked but not yet invoiced, and authorized expenses for Services completed and accepted by the County less any claims County has against Contractor; or (2) for deliverable-based Services, a claim against County for the sum designated for completing the deliverable multiplied by the percentage of Services completed and accepted by the County, less previous amounts paid and any claims County has against Contractor.

18. **Anti-Discrimination Law Compliance.** Contractor shall comply with all applicable federal, state and local laws, rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.

19. **Public Contracting Laws.** Contractor shall comply with the following statutory public contract provisions are included herein by reference: ORS 279B.220, 279B.230 and 279B.235.

20. **Liability Limitations.** County shall not be liable for any expenditure without statutory appropriation pursuant to ORS 294.305 et seq. (local budget law) or indebted or liable for any obligation created by the Agreement in violation of the debt limitation of Article XI, Section 10 of the Oregon Constitution.

21. **Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, riot, civil disobedience, acts of God, or war where such cause was beyond the reasonable control of County or Contractor. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

22. **Severability.** If any term of provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

23. **Waiver.** The failure of County to enforce any provision of this Agreement shall not constitute a waiver by County of that or any other provision. The failure of the Contractor to enforce any provision of this Agreement shall not constitute a waiver by the Contractor of that or any other provision.

24. **Third Party Beneficiaries.** The signatories to this Contract are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.

25. **Entire Agreement.** This Agreement sets forth the entire agreement between the parties and may not be modified or altered except in writing, signed by both parties.

DATED: _____ CONTRACTOR _____

Chief Executive Officer
Helion Software, Inc.

DATED: _____ WASCO COUNTY _____

Title

EXHIBIT A

System Installation

Helion will install and configure the BOPTA system for Wasco County.

BOPTA System Training

1. Helion will provide training for the BOPTA System.
2. Training will be three hours long and will occur on a mutually-agreed upon date, not later than 12/1/2021
3. Helion will provide go-live support as needed.
4. Wasco County will provide all necessary computer equipment.
5. Actual training schedule will be developed by Helion and the Wasco County staff.
6. Helion will establish a remote service procedure whereby a personal computer or similar equipment may be employed for service assistance.

HELION SOFTWARE LICENSING AGREEMENT (TERMS AND CONDITIONS)

This agreement is a license and is made and entered into by and between the LICENSED USER, hereinafter called "USER", and Helion Software, Inc., hereinafter called "HELION".

WHEREAS, HELION currently owns the product(s) specified in the agreement (therein referred to as "PRODUCT") with the right to license and distribute the PRODUCT; and

WHEREAS, the USER is Wasco County, a political subdivision of the State of Oregon, who will make lawful use of the PRODUCT in its business activity; and

WHEREAS, the USER desires a license to use the PRODUCT and HELION desires to grant such a license to the USER for the sole purpose of permitting the USER to use the PRODUCT in its business activity and for no other purpose whatsoever;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions set forth herein, the parties hereto agree as follows:

1. PRODUCT

1.1 Licensed PRODUCT(s). This license applies to the PRODUCT(s) owned by HELION.

1.2 Grant of License. For and in consideration of the USER's covenant to make payments under Section 5 and the performance of the other covenants and obligations of the USER hereunder, HELION hereby conveys to USER a non-exclusive license to the PRODUCT.

2. USE

2.1 Permitted Use. This license is granted for the sole purpose of permitting the USER to use the PRODUCT in its lawful business activity and for no other purpose whatsoever.

2.2 Restrictions on Use.

(a) Copies. USER shall not duplicate the PRODUCT except for the following:

1. USER may make copies of the PRODUCT for protection purposes as long as the USER agrees not to use the backup copy for any purpose other than to replace original data if lost or damaged.
2. USER may translate the PRODUCT into other formats and/or media. These "reformats" shall be subject to the same restrictions as the PRODUCT under this agreement.
3. USER may install and use any number of copies of this product within the Assessor's Department. In addition, the USER may install and use any number of copies of this product throughout other client departments in read-only mode.

2.3 Reserved Rights. HELION shall retain all rights, title and interest in the PRODUCT, including the right to license the PRODUCT's covered by this license to other USER's.

3. MAINTENANCE OF SOFTWARE

3.1 Updates. Maintenance, support and upgrades of software programs fall outside this license agreement.

4. TERM

4.1 The term of this agreement shall not be restricted as to time, except as set forth in 4.2 below, and shall commence the date the agreement is executed.

4.2 The term of the license shall expire at such time as the USER discontinues use of the PRODUCT, unless the USER fails to comply with any of the terms and conditions provided herein at which time the license shall be revoked. The license shall be revoked by HELION giving written notice of such revocation to the USER.

5. PAYMENT

5.1 Payment Schedule.

11/1/2021 $3,500

5.2 Unpaid Fees. Any fees remaining unpaid more than 30 days after the date they are due shall be subject to an interest charge of 1% per month until paid.

6. DELIVERY

HELION shall deliver the PRODUCT to USER in good working condition.

7. WARRANTY

7.1 Limited Warranty

(a) HELION shall use its best efforts to ensure that the PRODUCT is delivered free of physical defect.

(b) HELION shall have the sole authority to determine whether the PRODUCT, at the time of delivery, was free of physical defect; however, any error(s) that prevent USER from using the PRODUCT shall be deemed a physical defect;

(c) HELION disclaims any other warranties, express or implied, respecting this agreement or the PRODUCT.

7.2 Remedy

(a) USER's sole and exclusive remedy for breach of this limited warranty will be to return the PRODUCT within 60 days of receipt.

(b) HELION shall, at its discretion, retain the returned PRODUCT and refund the fee for the license, or replace the PRODUCT, or repair the PRODUCT and return it to the USER within 60 days of being notified of a breach of limited warranty.

8. ASSIGNMENT AND TRANSFER

USER shall not disclose, lease, sell, distribute, make, transfer or assign the PRODUCT or engage in any other transaction that has the effect of transferring the right of use or part of the PRODUCT without prior written consent of HELION.

9. LIABILITY

HELION shall not be liable for any activity involving the PRODUCT with respect to the following:

(a) Lost profits, lost savings or any other consequential damages.

(b) The fitness of the PRODUCT for a particular purpose.

(c) The installation of the PRODUCT, its use or the results obtained.

(d) Any foreseeable or unforeseeable damages that are unrelated to a physical defect in the PRODUCT.

10. TERMINATION

10.1 USER Rights. Upon the expiration or revocation of this license, the rights of the USER shall cease.

10.2 Return of the PRODUCT and Copies. The PRODUCT and any copies of the PRODUCT shall be returned to HELION within 30 days from the date this license expires or immediately if revoked.

11. MISCELLANEOUS

11.1 Applicable Law: Venue. This license shall be constructed and interpreted under and pursuant to the laws of the state of Oregon. The parties agree that venue for any action or claim arising out of or in connection with this license shall be in the Circuit Court for Wasco County, Oregon.

11.2 Invalidity. If any term or provision of this license or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this license shall be valid and enforced as written to the fullest extent permitted by law.

11.3 Entire Agreement. This license contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement or promise made by any party hereto, which is not contained herein, shall be binding or valid.

11.4 Authority. Persons whose signatures appear as "LICENSED USER" on the reverse represent that they are authorized to do so and represent and warrant that this licensing agreement is a legal, valid and binding obligation and is enforceable in accordance with its terms.

12. TIMELINE

12.1 **Beginning Approximately November 1, 2021.**

13. SOFTWARE INTEGRATION

13.1 HELION, to the best of its ability, shall cooperate with the USER and any other USER vendors to integrate HELION'S software and data with other USER computer systems. HELION will provide database diagrams and assistance with data integration with other systems.

13.2 If any programming is required, HELION shall bill USER at our standard hourly rate for those additional services.

License Number: 2021-021 **Date:**

Contact Person: Lisa Gambee **Phone: 541-506-2535**

Company/Agency: Wasco County, OR

Address: 511 Washington Street, Suite 201 | The Dalles, OR 97058

Product Description

BOPTA – Version 2021

TOTAL SOFTWARE COST $3,500

This software license agreement is subject to the terms and conditions described previously. In witness whereof, this license is executed on the data set forth under the parties named.

Helion Software, Inc.	**Licensed User**
Signature:	**Signature:**
_____	_____
Name: Murray Giesbrecht	**Name:** _____
Title: Chief Executive Officer	**Title:** _____
Date: _____	**Date:** _____

Services Contract- Terms and Conditions

Client Software Support

BY ACCEPTING THE SERVICES AND SUPPORT DESCRIBED ON YOUR INVOICE, YOU AGREE TO BE BOUND BY AND ACCEPT THE TERMS AND CONDITIONS HEREIN. THESE TERMS AND CONDITIONS (THE "CONTRACT") WILL SUPPLEMENT THE TERMS AND CONDITIONS OF ANY APPLICABLE OVERRIDING SIGNED AGREEMENT BETWEEN YOU (WASCO COUNTY) AND HELION.
If you purchased Client Software Support, Helion will provide this software service (the "Support") to you pursuant to the following terms and conditions:

Supported Software:

BOPTA

__X__ BOPTA Version __2021__

Technical support is provided for listed versions and one version back. Support on older versions is on a limited, "best effort" basis.

1. SCOPE OF SERVICES

1.1. Helion will help you to resolve your problems by providing telephone, electronic, remote and onsite assistance to your designated representatives. A resolution is the initial contact and any subsequent contact necessary to resolve the issue for you.

1.1.1. USER will be given a phone number to be used for support after the purchase of a support contract

1.1.2. HELION will use commercially reasonable efforts to provide the following Support services to you:

- Proposed corrections for error messages due to software listed under the contract
- Problem determination may include any of the following actions:
  - Information gathering
  - Analysis
  - Research including reproducing systems
  - Acquiring additional information
- Problem Resolution may include any of the following actions:
  - Providing a resolution to the problem immediately;
    or
  - Providing documented clear steps that Client staff can reasonably take to correct the problem;
    or
  - Following analysis, providing documented clear steps toward problem resolution; or
  - Performing configuration changes to the Helion software;
    or
  - Modifying corrupt data caused by a defect in the software.

1.2. HELION will provide upgrades for error correction, legal requirements and enhancements as they are released. Support shall also include necessary assistance and consultation to assist Client in resolving problems with the use of the Software including the verification, diagnosis and correction of errors and

defects in the Software. Support shall include third party software bundled with the Helion software, as well as updates to documentation.

1.3. Helion will provide support for modifications or specialized features made at the request of the Client and performed by Helion.

1.4. All modifications or specialized features made at the request of the Client and performed by Helion will be ported to and supported in all future versions and releases of the Software unless authorized in writing from the Client.

1.5. The Contract does not cover:
- 1.5.1. Instances in which the compatibility of the system to the software is in question, or when the configuration is invalid
- 1.5.2. Remote or on-site training assistance
- 1.5.3. Software Support on any other products than specifically stated in the Supported Software section of this contract
- 1.5.4. Helion is not responsible to maintain compatibility with any application not listed as part of the supported Helion software system. Helion will make a good faith effort to notify the Client of any incompatibility between Helion software and third party software.

1.6. Database Maintenance

1.6.1. Helion is not the Client's database administrator unless specified in a separate agreement.

1.6.2. Helion will provide on-going consulting on procedures for the backup and restoration of all databases required to run supported Helion software but is not responsible for accuracy or verification of any backups.

1.6.3. Helion will consult with the Client technical staff as needed on the status of all databases required to run supported Helion software and ensure that all database indexes and database features are configured appropriately to ensure the proper functioning of all Helion supported software.

1.6.4. If requested in writing, Helion will ensure that database backups are performed prior to any modification to the database structure and/or schema as part the implementation of new Helion software through new version release or problem resolution.

1.6.5. Helion will perform all database repair and recovery due to database corruption, malfunction, or inconsistency brought about by implementation of new Helion software through new version release or problem resolution, by defects in or improper functioning of the client software, or by third party software used within any Helion supported software.

2. RESPONSE TIMES AND SYSTEM ACCESS

2.1. Unless visit was requested by the Client, Helion will provide the Client IT Division with 2 days notice prior to performing a site visit to perform software upgrades or modifications to the database or the client software.

2.2. Client shall notify Helion, either by telephone or in writing or email, of any deficiency and shall provide any other information that Helion may reasonably request in determining the nature of the deficiency. Helion shall commence correction of such deficiency in accordance with this section. Helion will provide problem resolution through telephone, electronic, remote and onsite assistance to the Client designated representatives. Resolving the problem may include the initial contact and any subsequent contact and actions necessary to address the initial issue for the Client. Helion will provide the Client with a local telephone or toll-free telephone number, an email address, and a designated point of contact to receive calls or e-mails for trouble reports. The Client shall designate authorized callers (who may change from time to time) for access to the telephone support.

2.3. The Client agrees to provide Helion with VPN access or through other secure electronic access technology and services at the Client's expense for purposes of Helion's fulfillment of its maintenance obligations. Such access shall not result in the unnecessary or unreasonable disruption of the Client's business operations.

2.4. Helion will respond to system problems that do not prevent normal daily operation of the system (Non-Emergency Response) within 16 business hours of the receipt of the trouble call.

2.5. On-Site Support. In an emergency or if all other support options fail, Helion shall have a technician on-site within one (1) business day of a request from the Client. This does not apply to Down System events, as described in Section 2.6.

2.6. Down-System Response: The system is considered "down" when any part of the system prevents daily operation ("Down System"). Helion shall respond within two business hours of telephone notification. Response may be by telephone.

2.7. Normal Support Hours: At all times from 7:00 a.m. to 5:00 pm Pacific Standard Time (PST) (note: Pacific Daylight Saving Time (PDST) when in effect) weekdays. The hours of Support shall not include New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas Day.

2.8. Helion will provide support for and is solely responsible for the proper functioning, licensing and distribution of additional or third party software used within their products or distributed with their products as a component of their software. Helion guarantees the functioning of this third party software as a component of their software.

2.9. Helion is not liable for any failure or delay in performance due to any cause beyond its control.

3. USER RESPONSIBILITIES

3.1. **General.** To receive Support, the USER is responsible for complying with the following:

3.1.1. Access to Software Support. USER must confirm that the following conditions are true:

- The situation giving rise to the question is reproducible;
- The hardware and operating systems meet minimum HELION requirements;
- The designated USER representatives will submit all questions to HELION. The USER's designated representatives must have knowledge regarding the facts and circumstances surrounding the incident;
- The full system, including software and hardware, is available to the representative and accessible by him or her without limit during any telephone discussions with HELION support personnel;
- The representative will follow the instructions and suggestions of HELION's support personnel, using the full system.

3.1.2. Software/Data Backup. The USER understands and agrees that HELION is not responsible for any loss of software or data.

3.1.3. Payment. HELION must have received payment for Support within 30 days of the date of invoice. USER shall pay an additional fee of 1.5% per month for invoices not paid within such 30-day period.

3.1.4. Installation of newer versions. If the resolution of a problem requires the installation of a newer version of the product, USER agrees to install the new version as part of the resolution process.

3.2. Until USER has complied with each of the aforementioned conditions, HELION reserves the right to withhold Support. HELION will notify the USER representative of any corrective action necessary to obtain or continue Support.

4. **GENERAL TERMS**

4.1. Term and Renewal: You may renew this agreement subject to approval and acceptance by Helion. Helion may change its rates, terms, and conditions for providing support at any time. Helion, at its discretion, may terminate this agreement on thirty (30) days notice to you, in which case you will be entitled to receive a pro-rated refund of any unearned support fees that you have paid. Client, at its discretion, may terminate this agreement on thirty (30) days notice to Helion, in which case Client shall be entitled to receive a pro-rated refund of any unearned support fees that were paid.

4.2. Claims of Confidentiality or Proprietary Rights**:** You agree that any information or data disclosed or sent to Helion, over the telephone, electronically or otherwise, which is confidential or proprietary to you, will be prominently marked as confidential or proprietary.

4.3. Entire Agreement: This Contract is the entire agreement between you and Helion with respect to its subject matter and none of Helion's employees or agents may orally vary the terms and conditions of this Contract.

4.4. This contract is valid for term specified in Section 6. You will be automatically invoiced for the next year 30 days prior to expiration. Payment of the renewal invoice shall constitute an automatic renewal of this agreement.

4.5. Annual Cost Adjustments: The cost shall be adjusted based on any increase in the Consumer Price Index Rate plus up to an additional two percent. The annual change in the cost of this Agreement shall be based on the change in the "Consumer Price Index – U.S. City Average for all Items for All Urban Consumers (1982-84=100)" published in the Monthly Labor Review by the Bureau of Labor Statistics of the United States Department of Labor (the "CPI-U") for the previous year.

Each adjustment shall be determined by multiplying the then-current Agreement cost by any increase in the CPI-U, from the previous Agreement year to the current Agreement year, using the month occurring three months prior to the end of the current Agreement year for comparison. The adjustment shall be made as soon as the applicable CPI-U information is available and, if delayed, shall be applied retroactively to the beginning of the period subject to the adjustment. In no case shall the Agreement cost as adjusted be less than the cost of the Agreement in effect just prior to the adjustment.

In the event the CPI-U is discontinued, the County and Helion will renegotiate this agreement.

Wasco County will consider in good faith increases proposed by Helion in excess of the amount above. Wasco County will base such considerations on information provided by Helion that it has incurred increased operational costs in excess of the percentage increase specified above. If Wasco County and Helion cannot come to an agreement about price increases, then Helion will continue to support Wasco County at the current rate plus annual CPI adjustments for up to three years following the year in which the disagreement occurs, during which time additional pricing negotiations may take place. Helion agrees that the hourly rates charged to Wasco County will not exceed hourly rates charged to others and agrees that services billed on other than an hourly basis will be proportional to those charged to others for the same or similar service.

5. TERM OF CONTRACT

Term of contract: November 1st, 2021 to June 30th, 2022

Payment Schedule:

11/1/2021	$1,500.00

Helion Software, Inc.

Client: Wasco County

Signature

_____ _____

Murray Giesbrecht Date

Chief Executive Officer

_____

Name:_____

Title:_____

Date: _____

MOTION

SUBJECT: **Helion Software Agreements**

I move to approve the Personal Services Contract, Software License and Support Contract between Wasco County and Helion Software for the BOPTA System.

AGENDA ITEM

PowderPure Enterprise Zone Modification Resolution

- STAFF MEMO
- STAFF PRESENTATION
- HB 2343
- RESOLUTION 21-009 ADJUSTING MINIMUM EMPLOYMENT REQUIREMENTS
- MOTION LANGUAGE

MEMORANDUM

SUBJECT: ADJUSTING MINIMUM EMPLOYMENT LEVEL REQUIREMENT PURSUANT TO SECTIONS 2 AND 3 OF HB 2343 (2021) FOR POWDERPURE

TO: BOARD OF COUNTY COMMISSIONERS AND THE DALLES CITY COUNCIL

FROM: MATTHEW KLEBES, ENTERPRISE ZONE MANAGER WITHIN THE DALLES

DATE: 10/12/21

BACKGROUND INFORMATION:

As we all know, businesses throughout Oregon have been severely impacted by the COVID-19 pandemic. Public health safety measures, remote work, supply line issues, reductions in sales, and filling open positions, among other challenges, have all placed a strain on employers. Recognizing these challenges, the Oregon Legislative Assembly enrolled HB 2343 (2021) with an effective date of September 25, 2021. HB 2343 allows sponsors of an Enterprise Zone to waive certain requirements of an agreement in order to allow the business to otherwise remain eligible.

Powderpure, also called Columbia Phyto Technology, entered an Enterprise Zone Agreement in 2017 to cover expanding its existing operations. As part of the expansion, Powderpure enlarged the building and purchased and installed an additional production line. Its abatement began in 2019, and Powderpure saw an increase in employment from 78 to 104 employees. Under the Enterprise Zone Agreement, the minimum number of jobs to be created to is 8; in other words, Powderpure needs to maintain 86 employees to remain eligible.

According to Powderpure's 2021 reporting, its employment has dropped to approximately 67. Included with this agenda item will be a presentation by Powderpure outlining the impacts of COVID-19 on their operations and, more specifically, the difficulties it has had in maintaining the required number of employees as contemplated by the Enterprise Zone Agreement.

With the passage of HB 2343, Oregon law allows the Sponsors (City of The Dalles and Wasco County) to pass a resolution setting a new employment minimum to allow Powderpure to maintain its exemption. Included in your packet is such a resolution setting a new employment minimum of 50 employees for the 2021-2022 year.

The Enterprise Zone Agreement with Powderpure was entered into under "The Dalles/Wasco County Enterprise Zone" where the City of The Dalles and Wasco County were the Sponsors. As such, the decision on this resolution rests with the City of The Dalles and Wasco County. The current zone, "Wasco County Joint Enterprise Zone" was predesignated in 2018, and comprises Wasco County, the Port of The Dalles, and every city located in Wasco County.

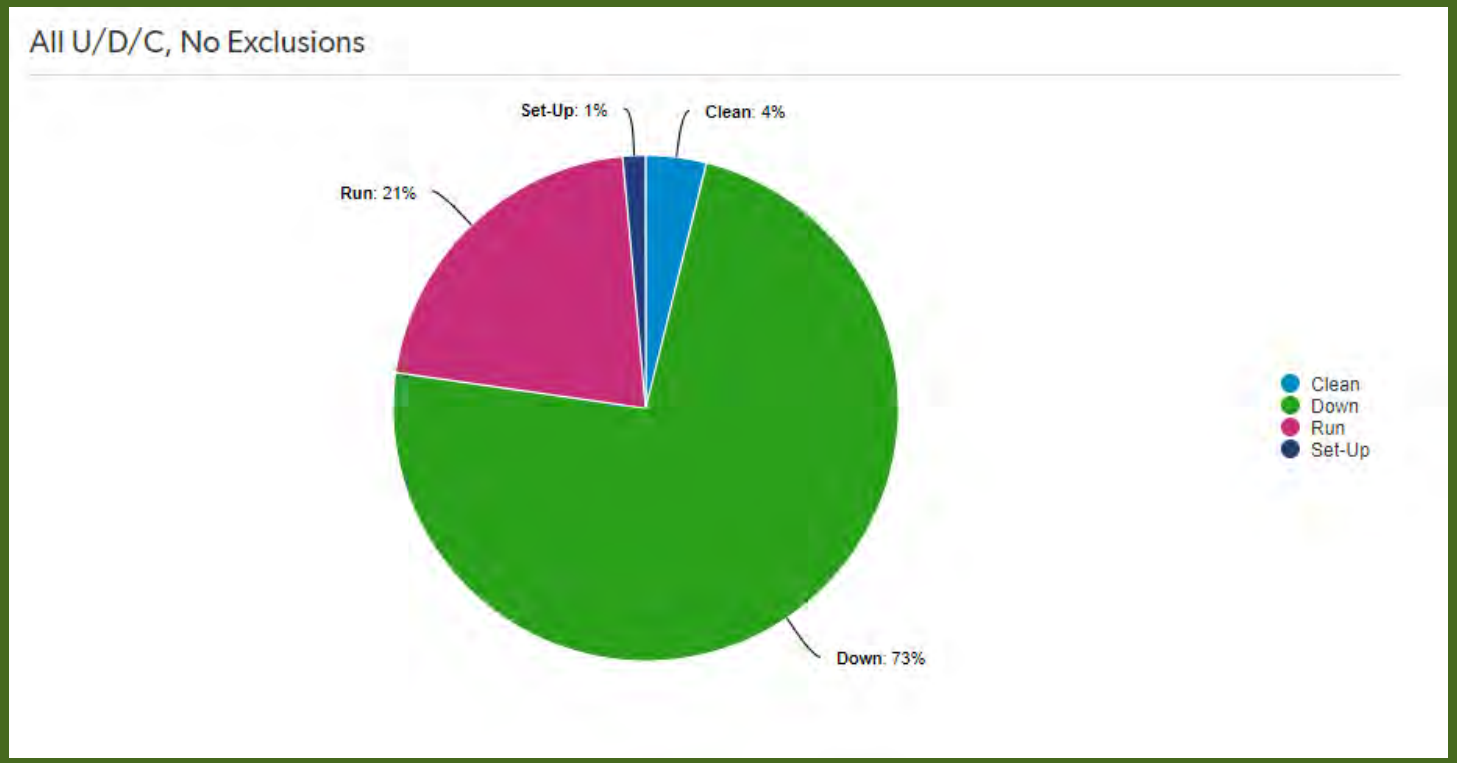
To take effect, this resolution must be passed by both Sponsors before November 9, 2021. HB 2343 also permits Sponsors the option to take a similar action applying to 2022-2023. This additional resolution would need to be passed on or before June 30, 2022.

2020 – 2021 Pandemic Effects



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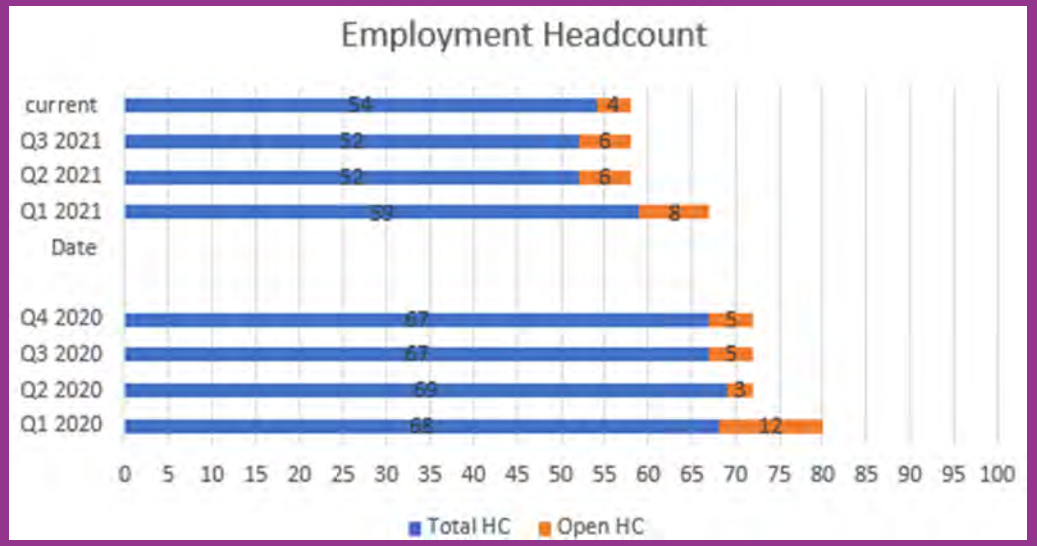
2020 – 2021 Plant Equipment Utilization



- Plant is Running at 28% capacity
- Expansion increased the capacity by 50%
- Social distance mandates and shift changeover cleans and segregation resulted in >250 production hours lost and direct costs >$42,000

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2020 – 2021 Employment Head Count

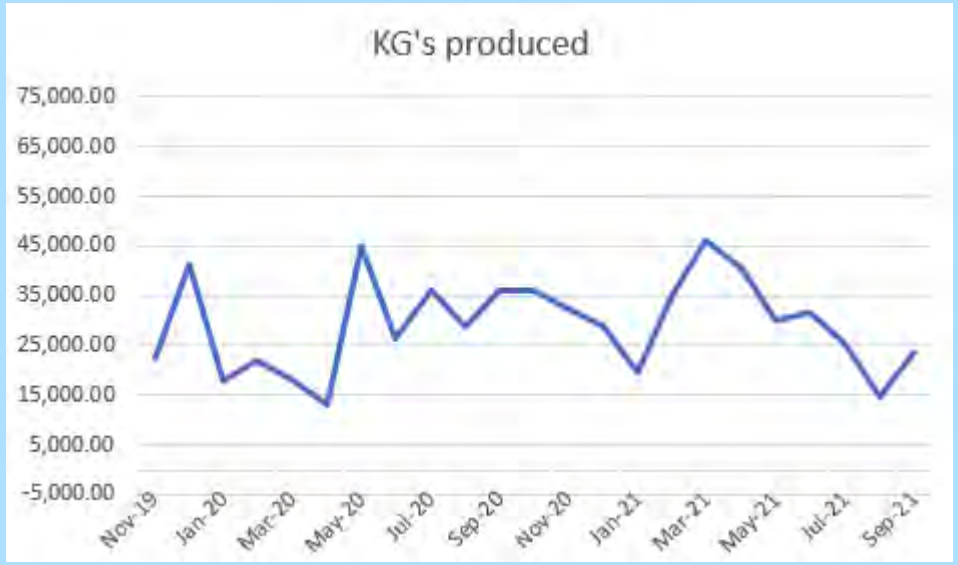


Decline in on site employees has been through attrition, employees have been leaving the company at an increased rate during the pandemic and suitable applicants have not been received to backfill vacant positions

- Have not been able to be fully staffed even with extensive recruiting and participation in job fairs
- Change in Sales amounts and lack of labor has changed our processing lead times and structure (suspension of 2nd shift due to lack of available labor)
- No layoff's occurred during pandemic, in times without orders we maintained employees with training.
- Lack of available local labor has shifted sales positions to remote (off site) labor

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2020 – 2021 Production Amounts



- Average production below 30,000kg/mo
- expected was 40,000kg
- Overtime Had a large increase with reduced labor availability

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Enrolled
House Bill 2343

Sponsored by Representatives BONHAM, LIVELY, Senator FINDLEY; Representatives BOSHART DAVIS, DRAZAN, HAYDEN, KROPF, LEVY, MORGAN, NOBLE, RESCHKE (Presession filed.)

CHAPTER .....

AN ACT

Relating to local government authority to suspend enterprise zone employment requirements; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this 2021 Act are added to and made a part of ORS 285C.050 to 285C.250.

SECTION 2. (1)(a) Notwithstanding ORS 285C.203 (1)(a), the governing body of a sponsor may adopt a resolution to suspend, as provided in ORS 285C.203, the obligation of a qualified business firm to meet the employment requirements of ORS 285C.200 if the reduced employment or financial distress of the firm is a result of the COVID-19 pandemic for which the Governor declared a state of emergency on March 8, 2020.

(b) A resolution may be adopted pursuant to this subsection under any procedures or authority permitted under state and local law applicable in a declared public health emergency.

(c) A resolution adopted pursuant to this subsection must set forth criteria for establishing that the COVID-19 pandemic prevented the qualified business firm from meeting the employment requirements of ORS 285C.200, including:

(A) Compliance with mandatory public health safety measures or closures;

(B) Mandatory limitations on facility capacity;

(C) A decrease in receipts;

(D) A reduction in sales;

(E) Disruption of the firm's access to markets or supply chains; or

(F) Other factors attributable to the COVID-19 pandemic.

(d) A resolution adopted pursuant to this subsection is not subject to the alternative deadline in ORS 285C.203 (3)(a)(B).

(2)(a) The resolution described in subsection (1) of this section is not effective unless adopted by the governing body of the enterprise zone on or before the later of June 30 immediately preceding the property tax year for which suspension is sought or 45 days following the effective date of this 2021 Act.

(b) The resolution may provide that the suspension applies to either or both of the property tax years beginning on July 1, 2021, and July 1, 2022.

(3) A resolution for suspension adopted pursuant to this section has the following effects:

(a) Tolling the deadline for claiming exemption for additional property under ORS 285C.225 (3)(b) until after the period of suspension has ended, if so provided in the resolution.

(b) Converting the denial under ORS 285C.175 of an exemption on qualified property that would otherwise have begun on July 1, 2021, into a one-year period of suspension beginning on that date.

(4) Any curtailment of operations that is permitted under a resolution adopted pursuant to this section is not subject to ORS 285C.240 (1)(b).

SECTION 3. (1) The qualified property of an authorized business firm may be granted an exemption, or continuation of an exemption, under ORS 285C.175 notwithstanding the fact that the firm does not meet the qualifications under ORS 285C.200 (1)(c), (d) or (e) or (2) if the failure of the firm to meet the qualifications is a result of the COVID-19 pandemic for which the Governor declared a state of emergency on March 8, 2020, and:

(a) The governing body of the sponsor adopts a resolution, on or before the later of June 30 immediately preceding the property tax year for which exemption is sought or 45 days following the effective date of this 2021 Act, that sets forth:

(A) Procedures for allowing the sponsor to grant the exemption;

(B) Standards for establishing a minimum number of employees of an authorized business firm; and

(C) Criteria for establishing that the COVID-19 pandemic prevented the authorized business firm from meeting the qualifications under ORS 285C.200 (1)(c), (d) or (e) or (2), including:

(i) Compliance with mandatory public health safety measures or closures;

(ii) Mandatory limitations on facility capacity;

(iii) A decrease in receipts;

(iv) A reduction in sales;

(v) Disruption of the firm's access to markets or supply chains; or

(vi) Other factors attributable to the COVID-19 pandemic;

(b) A copy of the resolution is provided to the county assessor, the Department of Revenue and the Oregon Business Development Department within 30 days following the adoption of the resolution;

(c) Within 30 days following the date on which the sponsor grants the exemption, the sponsor provides the county assessor with written notice that the exemption has been granted; and

(d) The authorized business firm satisfies the requirements established under the resolution adopted pursuant to this subsection and any otherwise applicable requirements under ORS 285C.050 to 285C.250, including, but not limited to, filing a claim that contains employment data for purposes of ORS 285C.220.

(2) A resolution may be adopted pursuant to subsection (1) of this section under any procedures or authority permitted under state and local law applicable in a declared public health emergency.

(3) A resolution adopted pursuant to subsection (1) of this section may grant an exemption, or continuation of an exemption, for property tax years beginning on or after July 1, 2021, and before July 1, 2023.

(4) Failure of an authorized business firm to meet any requirement adopted pursuant to subsection (1) of this section shall be subject to the notice requirements and disqualification of the authorized business firm's qualified property under ORS 285C.240, unless the firm satisfies the requirements of ORS 285C.200 without the exceptions allowed under subsection (1) of this section.

(5) Any curtailment of operations that is permitted under a resolution adopted pursuant to this section is not subject to ORS 285C.240 (1)(b).

(6) A county assessor is not obligated to verify compliance of an authorized business firm with any requirement imposed on the firm by a sponsor pursuant to this section.

(7) The governing body of a sponsor that adopts a resolution pursuant to subsection (1) of this section shall submit a written report to the Oregon Business Development Department detailing the implementation of the resolution.

SECTION 4. (1) This section applies to:

(a) A qualified business firm to which a resolution to suspend adopted pursuant to section 2 of this 2021 Act applies; and

(b) An authorized business firm whose qualified property is exempt under a resolution adopted pursuant to section 3 of this 2021 Act.

(2)(a) Notwithstanding ORS 285C.240 (6)(b), the sponsor that adopted the applicable resolution and that collected from the business firm under ORS 285C.240 (6)(a) an amount equal to the property taxes for qualified property of the business firm that would otherwise have been due for the assessment years beginning on January 1, 2020, or January 1, 2021, may refund to the business firm, without interest, all or any part of the amount so collected.

(b) The notice given by the business firm to the county assessor under ORS 285C.240 (1) with respect to paragraph (a) of this subsection shall not count as the first notice given by the business firm for purposes of ORS 285C.240 (6)(c).

SECTION 5. Sections 2 and 3 of this 2021 Act are repealed on the date that is one year following the date on which the declaration of a state of emergency issued by the Governor on March 8, 2020, and any extension of the declaration, is no longer in effect.

SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 1, 2021

Repassed by House June 24, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 23, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF ADJUSTING MINIMUM EMPLOYMENT LEVEL REQUIREMENT PURSUANT TO SECTIONS 2 AND 3 OF HB 2343 (2121) FOR POWDERPURE

RESOLUTION #21-009

WHEREAS, the City of The Dalles and Wasco County are co-sponsors of The Dalles/Wasco County Enterprise Zone; and

WHEREAS, initial or continuing exemption of qualified property in the enterprise zone by the authorized/qualified business firm Powderpure is subject to denial or disqualification by the County Assessor due Powderpure's failure to meet requirements under ORS 285C.200(1)(c) for the number of its employees on or before date of filing initial exemption claim or for substantial curtailment under ORS 285C.210; and

WHEREAS, Chapter 522, Oregon Laws 2021 (Enrolled House Bill 2343-C, "HB 2343") allows enterprise zone sponsors to remedy such situations arising from distress caused by the COVID-19 pandemic for the 2021–2022 and 2022–2023 tax years by either suspending the exemption period to resume later under ORS 285C.203, or by temporarily waiving requirements and by setting a minimum employment level lower than normal statutory requirements the business firm must otherwise maintain, including but not limited to the remaining period of a resumed exemption; and

WHEREAS, sponsor resolution(s) must be adopted within 45 days of the law's effective date (September 25, 2021) for purposes of 2021–2022 tax year, or by June 30, 2022, for the 2022–2023 tax year, which is also the date when HB 2343 is repealed; and

WHEREAS, the pandemic-related reasons or criteria that prevented Powderpure from meeting employment requirements are established as described below:

- Compliance with mandatory public health safety measures or closures;
- Mandatory limitations on facility capacity;
- Disruption of the firm's access to markets or supply chains; and
- Difficulties in securing new employees.

NOW, THEREFORE, THE WASCO COUNTY BOARD OF COMMISSIONERS HEREBY RESOLVES:

Section 1. Under HB 2324, due to COVID-19 impacts the number of employees Powderpure must have on average in the enterprise zone at a minimum consistent with ORS 285C.210, during the 2021-2022 tax year shall be no less than 50 employees.

Section 2. This resolution makes no such adjustment for the 2022-2023 tax year, and without further action, the conditions of the original enterprise zone agreement resume.

Section 3. The County Assessor, Department of Revenue, and Oregon Business Development Department shall receive copies of this resolution within 30 days of its adoption.

Dated this 20 day of October, 2021.

APPROVED AS TO FORM:

_____
Kristen Campbell, County Counsel

WASCO COUNTY BOARD OF COMMISSIONERS:

_____,
Scott C. Hege, Commission Chair

_____,
Kathleen B. Schwartz, Vice-Chair

_____
Steven D. Kramer, County Commissioner

MOTION

SUBJECT: **PowderPure Enterprise Zone Modification**

I move to approve Resolution 21-009 Adjusting minimum employment level requirement pursuant to sections 2 and 3 of HB 2343 (2121) for PowderPure.

AGENDA ITEM

Executive Session

PURSUANT TO ORS 192.660(2)(N) SECURITY PROGRAMS

NO DOCUMENTS HAVE BEEN SUBMITTED FOR THIS ITEM – RETURN TO AGENDA

AGENDA ITEM

Strategic Investment Program Agreement & Resolution

- STAFF MEMO
- RESOLUTION 21-010
- SIP AGREEMENT
- MOTION LANGUAGE

MEMORANDUM

SUBJECT: Strategic Investment Program (SIP) Agreement

TO: WASCO COUNTY BOARD OF COMMISSIONERS AND THE CITY OF THE DALLES CITY COUNCIL

FROM: MATTHEW KLEBES, ADMINISTRATIVE SERVICES DIRECTOR

DATE: 10/12/21

SUMMARY

As our community is well aware, Google has current enterprise zone agreements under The Dalles/Wasco County Enterprise Zone, the earliest of which was signed in 2005. Under these agreements Google has invested millions of dollars in the development of multiple data centers and contributed to the creation of hundreds of direct and indirect jobs in our community. The first of these enterprise zone agreements is approaching its 15 year end, after which the first development will return to the tax rolls.

Google is interested in continuing to invest in The Dalles. The City of the Dalles and Wasco County have been approached by Google seeking a Strategic Investment Program (SIP) agreement administer by Business Oregon for the development of property they have privately purchased primarily consisting of the former aluminum plant site.

The Strategic Investment Program was created by the State of Oregon in, "…the 1990s to induce large, capital-intensive facilities to locate and grow anywhere in Oregon". It provides up to 15 years of partial tax abatement for a project and is similar to an Enterprise Zone but is distinct in several key ways, most notably in that portions of the development are taxed as normal as well as a prescribed Community Service Fee based on tax savings. Google has expressed that a SIP agreement is a linchpin in the development of this site moving forward. City and County staff were also in agreement that using the SIP program instead of the enterprise zone program better aligned with community feedback.

PAST STEPS

A summary of the Strategic Investment Program itself as well as an initial term sheet for the required local agreement were presented at a public hearing held by the Wasco

County Commission on February 17, 2021. This was followed by a public presentation to the City of The Dalles Council on February 22, 2021.

This item was again brought to the Wasco County Commission for further discussion on March 3, 2021 and to the City of The Dalles Council on March 8, 2021. After these meetings were concluded staff worked with Google representatives and City and County legal counsel to address outstanding items and finalize the agreement included today in your packet. This effort included substantial research and due diligence on other SIP agreements around the State.

KEY COMPONENTS

- Agreement covers up to two distinct SIP projects
- Provides a total maximum 25 year window for two projects, each with a maximum 15 years of partial tax abatement before returning to full tax.
- A one-time 3 million dollar initial payment to the City and County for each project during construction
- State prescribed taxes tied to the total investment of each project
- State prescribed Community Service Fee (CSF) for each project
- Guaranteed Annual Payment (GAP) for each project
    - The GAP is based on a percentage of total property tax equal to the combined payments of statutory property tax, CSF, and GAP
    - The GAP for Project 1 will be based on 50% of property tax due if there was no SIP agreement /Project 2 will be based on 60%.
    - Please see Exhibit A of the agreement for an example calculation
- Transfer of 35 acres of property from Google to the County
- Right of First Refusal giving the City and County the option to purchase the property from Google should they cease operations for up to 10 years after the completion of the final abatement along with a $500,000 credit for each developed project to offset potential demolition and redevelopment costs.

NEXT STEPS

Once the local agreement has been finalized, Google will apply to Business Oregon who shall determine if the project(s) are eligible under ORS 285C.606. Per OAR 123-623-1400(7) an application shall be submitted no later than 30 days after the County has approved the project(s).

Following the approval of the SIP applications by Business Oregon a local process will begin to finalize the distribution of the Community Service Fee (CSF). This will culminate in a formal agreement approved by Wasco County, City of The Dalles, and Local Taxing Districts listed in ORS 198.010 or 198.180, which account for at least 75% of property tax authority.

Currently, it is the recommendation of the negotiation team that the CSF be proportionally distributed to all relevant tax districts according to the sum of each district's permanent and local option (levy) rate authority, but excluding bonded indebtedness.

Also following approval of the SIP applications by Business Oregon, and finalization of a purchase and sale agreement, approximately 35 acres of land shall be transferred, at no cost, to the County. A decision on how these developable acres may be used has not been made at this time.

ACTION

If they so choose, the County Commission and City Council will each need to pass a respective resolution (included in your packet) approving the local agreement covering each SIP application. Following approval of the agreement, a letter from the County Commission requesting determination by the Oregon Business Development Commission that the projects are eligible under the SIP program will need to be submitted.

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF STRATEGIC INVESTMENT PROGRAM APPLICATION

RESOLUTION #21-010

WHEREAS, the Legislative Assembly has declared that a significant purpose of the Strategic Investment Program (the "SIP"), ORS 285C.600-285C.620 and ORS 307.123, is to promote industrial competitiveness and to improve employment in the areas where projects are to be located by encouraging businesses engaged in projects to hire local employees.

WHEREAS, the SIP encourages local governments to enter into agreements with key industries to attract and retain long term investment and employment; and

WHEREAS, Google LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (Google, LLC, Design, LLC, and Moraine Industries LLC collectively referred to herein as the "Company") or an Affiliate of the Company proposes to build and operate data center projects within the County that will support the Company's data center operations (the "Projects"); and

WHEREAS, The City of The Dalles, a political subdivision of the State of Oregon and Wasco County, a political subdivision of the State of Oregon, and the Company have negotiated the terms of a mutually agreeable SIP agreement; and

WHEREAS, the Oregon Business Development Commission is charged by law with determining eligibility and confirming the description of the proposed project and the property constituting it for purposes of assessment and ad valorem taxation ("SIP exemption") as provided in ORS 307.123.

NOW, THEREFORE, IT IS HEREBY RESOLVED: The Wasco County Commissioners approve the execution of the SIP agreement for the Projects; and

IT IS HEREBY FURTHER RESOLVED: Wasco County shall assist the Company in submitting certified copies of this resolution and other evidence of Wasco County's fulfillment of the provisions under ORS 285C.609 to the Oregon Business Development Department.

Dated this 20th day of October, 2021

WASCO COUNTY
BOARD OF COMMISSIONERS

ATTEST:

_____
Kathy Clark, Executive Assistant

_____
Scott C. Hege, Commission Chair

_____
Kathleen B. Schwartz, Vice-Chair

APPROVED AS TO FORM:

_____
Kristen Campbell, County Counsel

_____
Steven D. Kramer, County Commissioner

OREGON STRATEGIC INVESTMENT PROGRAM AGREEMENT

The City of The Dalles, a political subdivision of the State of Oregon (the "City"), Wasco County, a political subdivision of the State of Oregon (the "County"), and Google LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (Google, LLC, Design, LLC, and Moraine Industries LLC collectively referred to herein as the "Company") hereby enter into this agreement (this "Agreement") effective as of the date of the last signature below (the "Effective Date").

RECITALS

A. The Company or an Affiliate of the Company proposes to build and operate data center projects within the County that will support the Company's data center operations.

B. The Oregon Legislature has established the Strategic Investment Program ("SIP") to promote industrial competitiveness and to improve employment in the areas where projects are to be located by encouraging businesses engaged in projects to hire local employees. The SIP provides a mechanism for local governments to enter into agreements with companies in key industries to attract and retain long-term investment and employment.

C. The City, the County, and the Company acknowledge that the Site (as defined below) is located in a "rural area" as defined in ORS 285C.600(6).

D. The City, the County, and the Company intend that this Agreement will satisfy the requirements described in ORS 285C.609(4) and that each Project (as defined below) will qualify for the property tax incentives described in ORS 307.123, will be a separate "eligible project" as that term is used in ORS 285C.600(2), and will have its own Exemption Period (as defined below).

E. The City, the County, and the Company have provided and/or will provide public information and an opportunity for public input regarding the Projects and this Agreement at formal public hearings.

F. The Company will enter into a First Source Hiring Agreement consistent with the Strategic Investment Program application requirements described in OAR 123-623-1500.

AGREEMENT

The City, the County, and the Company hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms have the following meanings:

"Affiliate" means the Company and any other entity that, directly or indirectly through one or more intermediaries, is controlled by, or is under common control with Google, LLC.

"Agent" means Wasco County.

"Agreement" has the meaning set forth in the Preamble.

"Bona Fide Offer" has the meaning set forth in Section 6.2.2.

"CIP Exemption" means the exemption for commercial facilities under construction under ORS 307.330.

"CIP Period" means the Tax Year or Tax Years during which the Project is exempt from taxation pursuant to ORS 307.330.

"City" has the meaning set forth in the Preamble.

"City Decision Notice" has the meaning set forth in Section 6.2.3.

"City Decision Period" has the meaning set forth in Section 6.2.3.

"Community Service Fee" has the meaning set forth in Section 3.4.

"Company" has the meaning set forth in the Preamble.

"County" has the meaning set forth in the Preamble.

"County Decision Notice" has the meaning set forth in Section 6.2.3.

"County Decision Period" has the meaning set forth in Section 6.2.3.

"Data Center" means a building primarily intended to house a group of networked server computers for the purpose of centralizing the storage, management and dissemination of data and information pertaining to one or more businesses. For the avoidance of doubt, a Data Center does not include a warehouse, an office building, or any other equipment or buildings used for electrical and mechanical utility services or any other use that support the Data Center. A Data Center that is built with contiguous walls and roof and placed into service in phases will be treated as a single Data Center. For purposes of this Agreement, a single Data Center cannot have a total footprint of more than 500,000 square feet and total building square footage of more than 1,000,000 square feet unless otherwise agreed to by the parties.

"Effective Date" has the meaning set forth in the Preamble.

"Exemption Period" means, with respect to each Project and subject to ORS 307.123, the fifteen consecutive Tax Years beginning the first Tax Year after the earlier to occur of the following dates: (i) the date such Project is initially certified for occupancy or (ii) the expiration of the CIP Exemption for such Project. The Exemption Periods for the Projects shall end no later than the day before the earlier of (i) the 20th anniversary of the first day of the first Tax Year in the Exemption Period for Project 1 or (ii) the 25th anniversary of the first Tax Year beginning on or after the approval of the SIP Applications by the OBDC.

"Exempt Property" means the property in each Project described in ORS 307.123(2)(c).

"GAP Amount" means, for each Project and any Tax Year in the Exemption Period for the Project, the Total Annual Payment Amount minus the sum of the Property Tax Payment and the Community Service Fee.

"GAP Payment" has the meaning set forth in Section 3.5.

"Initial Payment" has the meaning set forth in Section 3.2.

"Non-Exempt Property" means the property in each Project described in ORS 307.123(2)(b).

"OAR" means the Oregon Administrative Rules.

"OBDC" means the Oregon Business Development Commission.

"Offer Notice" has the meaning set forth in Section 6.2.2.

"ORS" means the Oregon Revised Statutes.

"Payment Date" means, for any Tax Year, December 31 of that Tax Year or, if later, thirty (30) days after the Company's receipt of the Payment Notice.

"Payment Notice" has the meaning set forth in Section 4.3.

"Permitted Transfer" has the meaning set forth in Section 6.2.6.

"Project" means Project 1 or Project 2.

"Project 1" means all property located at the Project 1 Site (including the Project 1 Site) during the term of this Agreement, including during the construction or operation of the property and including all land, buildings (including but not limited to a warehouse), substations, real property machinery and equipment, and personal property of any kind as specified in ORS 307.123(2)(b). Project 1 must include exactly one Data Center. The City, the County, and the Company may amend the definition of "Project 1" by mutual written agreement of the parties. Project 1 may be built over a period of time.

"Project 1 Site" means the portion of the Site designated by the Company as the "Project 1 Site" as more fully described in Exhibit B, as such designation may be amended pursuant to Section 4.2.

"Project 2" means all property located at the Project 2 Site (including the Project 2 Site) during the term of this Agreement, including during the construction or operation of the property and including all land, buildings (including a warehouse), substations, real property machinery and equipment, and personal property of any kind as specified in ORS 307.123(2)(b). Project 2 must include exactly one Data Center. The City, the County, and the Company may amend the definition of "Project 2" by mutual written agreement of the parties. Project 2 may be built over a period of time.

"Project 2 Site" means the portion of the Site (other than the Project 1 Site) designated by the Company as the "Project 2 Site" as more fully described in Exhibit C, as such designation may be amended pursuant to Section 4.2.

"Property Tax Payment" has the meaning set forth in Section 3.3.

"Purchase Agreement" has the meaning set forth in Section 6.2.3.

"ROFR" has the meaning set forth in Section 6.2.

"ROFR Period" has the meaning set forth in Section 6.2.

"ROFR Property" means (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records, containing 73.03 acres, more or less, along with any real property improvements constructed on either of the same, but shall not include (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property.

"SIP" has the meaning set forth in the Preamble.

"SIP Applications" means the applications for the exemption pursuant to ORS 307.123 for Project 1 and Project 2 which shall be filed by Company on or before the deadline imposed by OAR 123-623-1400.

"SIP Payments" means the Initial Payments, the Community Service Fees, the Property Tax Payments, and the GAP Payments.

"Site" means the land specified in Exhibit D excluding the Transferred Property.

"Tax Year" means the property tax year beginning July 1 and ending June 30.

"Total Annual Payment Amount" means (i) for Project 1 and any Tax Year in the Exemption Period for Project 1, the greater of (a) fifty (50) percent of the property taxes that would, but for the exemption pursuant to ORS 307.123(2), be due with respect to Project 1 for the Tax Year or (b) $3,000,000; and (ii) for Project 2 and any Tax Year in the Exemption Period for Project 2, the greater of (a) sixty (60) percent of the property taxes that would, but for the exemption pursuant to ORS 307.123(2), be due with respect to Project 2 for the Tax Year or (b) $3,000,000. It is the intent of the parties that, for each Tax Year and each Project, the Total Annual Payment Amount will equal the aggregate amounts of the Property Tax Payment, the Community Service Fee, and the GAP Payment. An example of the calculation of the Total Annual Payment Amount, the Property Tax Payment, the Community Service Fee, and the GAP Payment is included in Exhibit A.

"Transfer Agreement" has the meaning set forth in Section 3.1.

"Transferred Property" has the meaning set forth in Section 3.1.

ARTICLE 2
EXEMPTION

2.1 Exemption. Pursuant to ORS 307.123(2)(c), and subject to Section 5.1, the Exempt Property in each Project shall be exempt from property tax during the Exemption Period for the Project. Each Project shall be a separate "eligible project" as that term is used in ORS 285C.600(2).

ARTICLE 3
PAYMENTS

3.1 Land. Following the approval of the SIP Applications by the OBDC, the Company shall transfer, at no cost to the County, a parcel of land with a minimum of thirty-five (35) acres in the approximate area shown on Exhibit E (the "Transferred Property") to the County pursuant to the terms of and timing set forth in a commercially reasonable mutually agreeable agreement of purchase and sale by and between the County and the Company for the transfer of the Transferred Property "as is" with no representations or warranties (the "Transfer Agreement"). The Company agrees to provide copies of its due diligence materials for the Transferred Property to the County for review. The exact acreage, not less than thirty-five (35) and configuration of the Transferred Property will be determined by the Company based on the Company's plans for the development of Project 1, Project 2, its warehouse, and any utility infrastructure improvements.

3.2 Initial Payment. Within 60 days after the Company has submitted the first Tax Year's CIP Exemption form for the Data Center in each Project but no later than 60 days after issuance of the Certificate of Occupancy for each Project, the Company shall pay the Agent $3,000,000 (the "Initial Payment").

3.3 Property Tax. Pursuant to ORS 307.123(2) the Company shall pay property tax with respect to the Non-Exempt Property for each Project during the Exemption Period for the Project (the "Property Tax Payment").

3.4 Community Service Fee. Pursuant to ORS 285C.609(4)(b) and (c), on or before the Payment Date for each Tax Year during the Exemption Period for each Project, the Company shall pay to the Agent an amount equal to twenty-five percent (25%) of the property taxes that would, but for the exemption pursuant to ORS 307.123(2)(c), be due with respect to the Project for the Tax Year, except that such amount shall not exceed $2,500,000 for that Project for any Tax Year (the "Community Service Fee").

3.5 GAP Payment. On or before the Payment Date for each Tax Year during the Exemption Period for each Project, the Company shall pay to the Agent an amount equal to the GAP Amount for such Project for the Tax Year (the "GAP Payment").

3.6 Underpayments. If the Company fails to pay any portion of the SIP Payments for a Tax Year by the Payment Date for that Tax Year, interest shall be charged on the past due balance in the same amount as is provided by Oregon law for late payment of ad valorem property taxes.

3.7 Overpayments. If the Company pays an amount in excess of amounts owed under this Agreement for any Tax Year, the City and the County shall either refund the excess or return the incorrect payment and request that the Company reissue payment in the correct amount. Notwithstanding the previous sentence, if the Company successfully challenges the real market value, maximum assessed value, or other value of any Project for any Tax Year, and such challenge results in a reduction in value that in turn results in a reduction in the amount of SIP Payments owed for the Tax Year, the City and the County may either credit the reduced SIP Payments against future amounts owed by the Company under this Agreement or refund any excess to the Company (but, to the extent no further amounts are owed by the Company under this Agreement, the City and the County shall refund any such excess to the Company). In any event of returned payment, the Assessor shall establish a schedule for payment that provides payment without undue delay and pursuant to Oregon Revised Statutes.

3.8 Disposition of Payments. As between (a) the City and the County and (b) the Company, the City and the County shall be solely responsible for the disposition of the SIP Payments. The Company shall have no liability or obligation to any person other than the City and the County with respect to the SIP Payments. The Company shall also not be responsible for the payment of any taxes, fees, or other payments imposed for land use approvals, permits or other governmental approvals necessary for the construction or operation of the Projects during the Exemption Periods, if such taxes, fees, or other payments are imposed by: (a) the City, (b) the County, or (c) any taxing district or other governmental entity that is exclusively governed by the City or the County (including any local taxing district described in ORS 285C.609(6)(a)(B)). Except as expressly exempted by this Agreement, and notwithstanding anything in the prior sentence to the contrary, nothing contained herein is intended to excuse the Company from any tax, fee, payment of general applicability or payment otherwise required by law, local ordinance or pursuant to this Agreement, including payments related to the SIP for the Projects.

ARTICLE 4
SIP NOTICES

4.1 Property Tax Filings. During the CIP Period and the Exemption Period for each Project, the Company shall file with the County Assessor or the Oregon Department of Revenue, as applicable, such information and reports as are required by law and shall promptly provide copies of such information to the County Assessor. Company shall collaborate with the County Assessor and Oregon Department of Revenue in fulfilling any and all statutory duties of Company.

4.2 Designation of Site. Within the Site the Company may make changes to the designation of the portion of the Site that will be the Project 1 Site or the portion of the Site that will be the Project 2 Site by providing written notice to the County, and such designation shall be effective for the first Tax Year following the first January 1 after delivery of such notice, except

that such changes in designation may not be effective for Tax Years beginning after the earlier of (i) the first Tax Year of the CIP Period for Project 2 or (ii) the first Tax Year of the SIP Exemption Period for Project 2.

4.3 County Notices. For each Tax Year in the Exemption Period, the County shall provide the Company with a notice of payment by December 1 of that Tax Year that specifies the SIP Payments due, if any, for the Tax Year, describes the calculations of such amounts due, provides documentation supporting such calculations, and specifies the Payment Date (the "Payment Notice").

4.4 Termination Notice. If Project 1 has not achieved commercial operation by the fifth tax year after the Effective Date, or the OBDC has not determined that the property in the Projects shall receive the tax exemption in ORS 307.123, the Company may terminate this agreement by providing written notice to the County to that effect. Notwithstanding the previous sentence, 3.1, 8.9, 8.10, and Article 7 shall survive such termination.

ARTICLE 5
FAILURES TO MAKE PAYMENTS

5.1 Loss of Exemption. After the Payment Notice, if the Company does not timely pay any portion of the SIP Payments for a Project for any Tax Year, does not pay any such outstanding amount and any applicable interest pursuant to Section 3.6 by the end of such Tax Year, and does not pay any such outstanding amount and any applicable interest pursuant to Section 3.6 within forty-five (45) days following notice from the County specifying the amount due and failure to pay such amount due will cause a loss of the exemption set forth in this Agreement, the Exempt Property for such Project (i) shall not be exempt from taxation pursuant to ORS 307.123 for the next Tax Year and any subsequent Tax Year in which the Company has not paid such amount and any applicable interest pursuant to Section 3.6 by the Payment Date for that Tax Year and (ii) shall be assessed and taxed as other similar property is assessed and taxed.

5.2 Payments Upon Lost Exemption. Notwithstanding anything in this Agreement to the contrary, if pursuant to Section 5.1 or otherwise the Exempt Property in any Project is not exempt from taxation pursuant to ORS 307.123 for any Tax Year during the Exemption Period for such Project, the Company shall not be required to pay the SIP Payments (other than the Property Tax Payment) for that Project for that Tax Year.

ARTICLE 6
ASSIGNMENTS; RIGHT OF FIRST REFUSAL

6.1 Assignments. The Company may sell, transfer, assign, pledge, mortgage, hypothecate, or otherwise dispose of and encumber all or any of its rights, title, and interests in, to, and under this Agreement with respect to either Project to any lender (or other financing party) as security for the performance of its obligations under any loan agreement with such lender (or financing agreement with such financing party), to any Affiliate or other entity formed for the purpose of developing, constructing, owning, or operating such Project, and to any lessee or third party purchaser, (subject to the County's ROFR as set forth in Section 6.2 below) of such

Project, without the consent of the City or the County, as long as such successor owner assumes and agrees to be bound by this Agreement and provided that Company remain bound by all of the terms of this Agreement unless the County and City consent in writing to release Company, which consent may not be unreasonably withheld. In such an event, the Company or the Company's assignee, as the case may be, will provide written notice to the other party of such assignment or pledge as promptly as practicable. The City and the County shall execute and deliver and furnish such consents, documents, certificates, opinions of counsel, and other instruments and information which any lender or financing party may reasonably request as a condition to the financing or refinancing of such Project. Except as set forth in this Article 6, neither this Agreement nor any rights under this Agreement, in whole or in part, shall be assignable or otherwise transferable by any party without the express written consent of the other party, and any attempt by any party to assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party, shall be null and void.

6.2 Right of First Refusal. Except with respect to a Permitted Transfer (as defined below), beginning on the first day of the Exemption Period for Project 1 until the earlier of ten (10) years after (i) the expiration of the Exemption Period for Project 2 (or Project 1 if there is no Project 2), or (ii) the earlier termination of this Agreement by either party hereto (as applicable, the "ROFR Period"), if a Data Center is no longer being operated on the ROFR Property, the County or City shall have a right of first refusal ("ROFR") to purchase the ROFR Property, or any portion of the ROFR Property, in accordance with the terms and conditions of this Section 6.2.

6.2.1 Recording. The ROFR and provisions of this Section 6.2 shall be recorded in the chain of title of the ROFR Property by Company in substantially the same form as Exhibit F.

6.2.2 In the event that during the ROFR Period, the Company receives a bona fide offer to purchase the ROFR Property, or any portion of the ROFR Property, that the Company intends to accept, which is not a Permitted Transfer (each a "Bona Fide Offer"), the Company shall provide notice and a copy of such Bona Fide Offer to the County and the City (the "Offer Notice") in accordance with Section 8.1.

6.2.3 The County shall have thirty (30) calendar days from receipt of the Offer Notice (the "County Decision Period") within which to notify the Company and the City whether the County elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under the terms and conditions specified in the Offer Notice, by giving written notice to the Company and City (the "County Decision Notice") of such election. The County shall use good faith efforts to provide the County Decision Notice as quickly as possible, and if the County does not provide the County Decision Notice within thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer. If the County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not timely provide the County Decision Notice, then the City shall have thirty (30) calendar days after the earlier of (i) receipt of the County Decision Notice or (ii) the end of the County Decision Period (the "City Decision Period") within which to notify the Company whether the City elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under

the terms and conditions specified in the Offer Notice, by giving written notice to the Company and City (the "City Decision Notice") of such election. The City shall use good faith efforts to provide the City Decision Notice as quickly as possible, and if the City does not provide the City Decision Notice within such thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer. Upon receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or City, as the case may be, shall forthwith proceed to consummate the sale and purchase of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer within the following time periods: (a) within 30 calendar days of the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or City, as the case may be, shall negotiate and execute an agreement for purchase and sale of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer (the "Purchase Agreement") on the terms and conditions set forth in the Offer Notice and in Section 6.2.7; and (b) within 60 days of the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or City, as the case may be, shall close on the sale of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer in accordance with the Purchase Agreement.

6.2.4 In the event that the County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the County Decision Notice within the County Decision Period and the City does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the City Decision Notice within the City Decision Period, or if either the County or City, as the case may be, elects to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer but the party electing to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer fails to consummate a Purchase Agreement or close in accordance with the Purchase Agreement within the time periods above, then the Company may thereafter sell the ROFR Property or any portion thereof free and clear of the ROFR at any time after the expiration of, as the case may be, (i) the City Decision Period, (ii) the time period to consummate a Purchase Agreement or (iii) the time period to close on the purchase and sale pursuant to the Purchase Agreement, but only at the price equal to or greater than ninety percent (90%) of the price set forth in the Bona Fide Offer. If the transaction contemplated by the Bona Fide Offer is not completed within the time period set forth in the Bona Fide Offer, as it may be amended, then Company shall not thereafter sell the ROFR Property, or any portion thereof, unless and until it again complies with the provisions of this Section 6.2.

6.2.5 Upon the Company's request, the County and the City shall timely deliver to the Company written confirmation that the County or the City, as the case may be, has not accepted the terms of the Company's Offer Notice and that the Company has acted in conformance with this Section 6.2.

6.2.6 For the purposes of this Section 6.2, "Permitted Transfer" shall mean any of the following:

(a) A transfer of the ROFR Property, or any portion thereof, to any Affiliate of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(b) Any change of control of the Company, whether by transfer of stock, membership or partnership interests or by merger or consolidation, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(c) A transfer of the ROFR Property together with a sale of substantially all of the assets of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(d) A transfer of the ROFR Property, or any portion thereof, to any Company mortgagee, beneficiary of a deed of trust, or any other entity holding an interest in the underlying fee-title of the ROFR Property, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; or

(e) A transfer of the ROFR Property, or any portion thereof, through foreclosure, bankruptcy, or any deed granted in lieu of foreclosure, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement to the extent allowed by law.

6.2.7 Any Purchase Agreement entered into pursuant to this Section 6.2 shall be upon substantially the terms set forth in the Bona Fide Offer, with the following exceptions:

(a) The closing date will be adjusted to be the date that is 60 days after the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be;

(b) The County or the City, as the case may be, shall be entitled to a credit against the purchase price as set forth in the Bona Fide Offer in the amount equal to $500,000 for each of Project 1 Site and Project 2 Site and the real property improvements constructed thereon, capped at $1,000,000 total for the ROFR Property, which amount is intended to offset demolition or repurposing costs and is payable only with respect to a Project if that Project receives a certificate of occupancy with respect to property in the Project. For example, if Project 1 receives a certificate of occupancy but Project 2 does not receive a certificate of occupancy, then the County or City, as the case may be, will receive a credit of $500,000, and if both Project 1 and Project 2 receive certificates of occupancy, then the County or the City, as the case may be, will receive a credit of $1,000,000.

6.3 Change in Law. The parties acknowledge that, due to the length of the Agreement's term, state laws and regulations, including the statutes and administrative rules relating to SIP and ad valorem property taxation, may be enacted, repealed, amended or substantially affected by court cases, and that such legal changes may materially alter the authority, rights or responsibilities of the parties or the benefits anticipated under this Agreement, prior to its expiration. The parties shall work together, reasonably and in good faith, to take such action (including amending this Agreement or entering into a separate agreement) as reasonably necessary to preserve and retain the substantive arrangement and relative and analogous rights, duties, responsibilities and obligations of the parties reflected in this Agreement.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Company. The Company represents and warrants to the City and the County as follows:

7.1.1 Organization. The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware.

7.1.2 Authority. The Company has full limited liability company power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

7.1.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.1.4 No Conflicts. The execution and delivery of this Agreement by the Company and the performance by the Company of its obligations under this Agreement will not:

(a) conflict with the Company's organizational documents;

(b) breach any agreement to which the Company is a party, or give any person the right to accelerate any obligation of the Company;

(c) violate any law, judgment, or order to which the Company is subject; or

(d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body.

7.2 Representations and Warranties of the City. The City represents and warrants to the Company as follows:

7.2.1 Organization. The City is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon.

7.2.2 Authority. The City has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. True and correct copies of the resolutions of the City authorizing the City to enter into this Agreement are attached hereto as Exhibit G.

7.2.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.2.4 No Conflicts. The execution and delivery of this Agreement by the City and the performance by the City of its obligations under this Agreement will not:

(a) conflict with the City's charter or any other organizational documents;

(b) breach any agreement to which the City is a party, or give any person the right to accelerate any obligation of the City;

(c) violate any law, judgment, or order to which the City is subject; or

(d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body (other than the City).

7.2.5 Ethics Laws. This Agreement, including the conveyance of the Transferred Property, is in accordance with all relevant government ethics laws. The City is aware and acknowledges that the Company may be a vendor and/or lobbyist employer, and Company employees may be registered lobbyists. This Agreement shall not prevent the Company from supplying products or services to the City under any future request for proposal or contract.

7.3 Representations and Warranties of the County. The County represents and warrants to the Company as follows:

7.3.1 Organization. The County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon.

7.3.2 Authority. The County has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. True and correct copies of the resolutions of the County authorizing the County to enter into this Agreement are attached hereto as Exhibit H.

7.3.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the County, enforceable against the County in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.3.4 No Conflicts. The execution and delivery of this Agreement by the County and the performance by the County of its obligations under this Agreement will not:

(a) conflict with the County's organizational documents;

(b) breach any agreement to which the County is a party, or give any person the right to accelerate any obligation of the County;

(c) violate any law, judgment, or order to which the County is subject; or

(d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body (other than the County).

7.3.5 Ethics Laws. This Agreement, including the conveyance of the Transferred Property, is in accordance with all relevant government ethics laws. The County is aware and acknowledges that the Company may be a vendor and/or lobbyist employer, and Company employees may be registered lobbyists. This Agreement shall not prevent the Company from supplying products or services to the County under any future request for proposal or contract.

ARTICLE 8
MISCELLANEOUS

8.1 Notices. Each notice or other communication provided under this Agreement (i) must be in writing, (ii) must be delivered to the recipient in person, by courier or certified mail, return receipt requested, or by facsimile or other electronic transmission at the addresses set forth below, and (iii) is effective upon receipt by the party receiving it.

If to the City, to:

Administrative Officer
Wasco County
511 Washington St., Suite 201
The Dalles, OR 97058
(541) 506-2700

If to the County, to:

City Manager
City Hall
313 Court Street
The Dalles, OR 97058
(541) 296-5481

If to the Company, to:

Design, LLC
Attention: General Counsel
1600 Amphitheatre Parkway
Mountain View, CA 94043

With a copy to:

Adam C. Kobos
Troutman Pepper Hamilton Sanders LLP
100 SW Main Street
Portland, OR 97204
adam.kobos@troutman.com

8.2 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

8.3 Entire Agreement. This Agreement is the entire agreement between the City, the County, and the Company with respect to the subject matter of this Agreement. There is no other oral or written agreement between the City, the County, and the Company with respect to the subject matter of this Agreement. There are no representations or warranties made by either the City, the County, or the Company, implied or express, other than those contained in this Agreement.

8.4 Severability. If any clause, sentence, or other portion of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

8.5 Amendments. This Agreement may not be amended unless such amendment is in writing and executed by the City, the County, and the Company.

8.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

8.7 Further Assurances. At any time from and after the date of this Agreement, at any party's request and without further consideration, the other party shall take all such further actions, and shall execute and deliver all such further instruments or documents, as a party may reasonably request to carry out and fulfill the transactions contemplated by this Agreement. Without limiting the foregoing, within two weeks after the Effective Date, the County shall request that the OBDC determine that the property in the Project shall receive the tax exemption in ORS 307.123.

8.8 Right to Contest Assessments. Nothing in this Agreement shall limit or restrict the Company from challenging the real market value, maximum assessed value, or other value of any property, or the amount that is or would, but for any exemption, be due for property taxes in the same manner as any other taxpayer pursuant to Oregon law.

8.9 Confidentiality. The parties will to the maximum extent permitted by law: (a) consider the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.615), as containing confidential commercial and financial information of Company, (b) keep the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.615), confidential and will not, without the prior written consent of the other party, disclose or use any information obtained in the course of this transaction other than in connection with the transaction; and (c) transmit such information only to such of its representatives who need to know the information for the sole purpose of assisting that party in evaluating this Agreement and who agree to be bound by these terms as if a party.

8.10 Dispute Resolution. Prior to any party to this Agreement instituting any legal action, arbitration, or other proceeding of any nature regarding matters related to this Agreement against any other party to this Agreement, the complaining party will request the other parties' participation in non-binding mediation, and the parties agree to work in good faith to attempt to resolve the dispute in the course of such non-binding mediation. Requests for such non-binding mediation may be made by written notice in the manner provided for in Section 8.1. The expenses of non-binding mediation, including, without limitation of generality, costs of notice thereof, fees of the mediator and of witnesses, and the cost of taking and transcribing testimony shall be shared equally by the parties. Notwithstanding the foregoing, any party may withdraw from such non-binding mediation at any point and, further, may decline to participate in or abstain from requesting such non-binding mediation if, in its sole discretion, doing so will adversely affect the party's interests. If non-binding mediation fails to resolve the dispute, a party withdraws from non-binding mediation, or a party abstains from requesting non-binding mediation pursuant to the foregoing, then each party may pursue any and all legal and equitable remedies available under and according to the laws of the State of Oregon. In such proceeding, and in any non-binding mediation, the parties agree to bear their own attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith.

8.11 Business Firm. Google LLC, Design, LLC, and Moraine Industries LLC elect to be treated as one business firm for purposes of ORS 285C.

[Signature page follows.]

The City, the County, and the Company have executed this Agreement effective as of the date of the last signature set forth below.

CITY OF THE DALLES

_____
Richard A. Mays, Mayor
[____], 2021

_____
Julie Krueger, City Manager
[____], 2021

WASCO COUNTY

_____
Scott C. Hege, Commission Chair
[____], 2021

_____
Kathleen B. Schwartz, County Commissioner
[____], 2021

_____
Steven D. Kramer, County Commissioner
[____], 2021

[Signatures continue on the following page.]

DESIGN, LLC

_____

[, Manager]
[____], 2021

MORAINE INDUSTRIES LLC

_____

[, Manager]
[____], 2021

GOOGLE LLC

_____

[, Manager]
[____], 2021

Exhibit A

Example Calculation of Project 1 Total GAP Payment

For illustrative purposes only and not intended as a representation or prediction of future development, the following example depicts how the total payment may be calculated:

Project 1	
Value	600,000,000
Taxable amount (with SIP)	50,000,000
Property tax rate	1.10%
Property tax (without SIP)	6,600,000
Property tax (with SIP)	550,000
Community service fee	1,512,500
Total Annual Payment Amount [Greater of (i) or (ii)]	
(i) 50% property tax (without SIP)	3,300,000
(ii) $3,000,000	3,000,000
Total Annual Payment Amount	3,300,000
Property tax payment (with SIP)	-550,000
Community service fee	-1,512,500
GAP Amount	1,237,500

Property tax payment (with SIP)	550,000
Community service fee	1,512,500
GAP payment	1,237,500
Total Annual Payment	**3,300,000**

Exhibit B

[Project 1 Site description]

A portion of (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit C

[Project 2 Site Description]

A portion of (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, (iv) the Transferred Property, and (v) the Project 1 Site. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit D

[Site Description]

Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit E

[Transferred Property]

An at least 35 acres portion of Parcel B – 2N13E33200 similar to the area shown below.

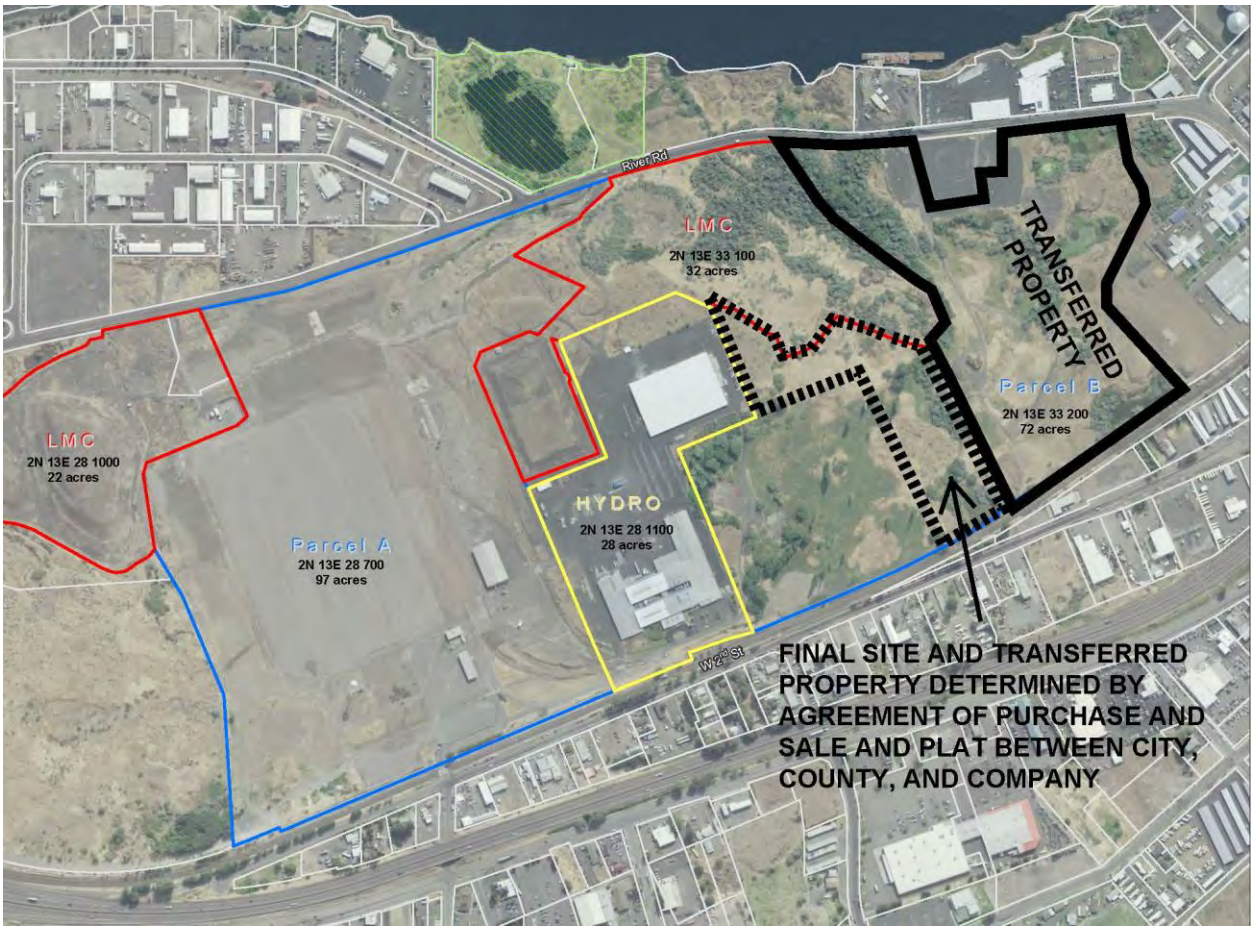


Exhibit F

[ROFR Memorandum]

Exhibit G

[City Resolutions]

Exhibit H

[County Resolutions]

MOTION

SUBJECT: **Strategic Investment Program Agreement & Resolution**

I move to approve the 2021 Oregon Strategic Investment Program Agreement between the City of The Dalles, Wasco County and Design, LLC; Moraine Industries, LLC; and Google, LLC.

I move to approve Resolution 21-010 in the matter of Design LLC/Google LLC Strategic Investment Program Agreement.