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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 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 valid Oregon State Building Codes permit signed by the Wasco County Planning Department between 4 September 1974 and 17 November 1986; or
 - (2) A valid Wasco Sherman Health Department septic permit before 1 January 1985; or
 - (3) 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 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 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 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.
 - (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 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 of existing nearby development. 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.
 - 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
 - f. Dimensions, based on information from the application or on Assessor's records
 - 4. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.
- 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 found at the specific site or in the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a

condition of approval.

- 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 shall be included as a condition of approval.
- 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 subordination, 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 from Key Viewing Areas.
 - 1. A determination of the potential visual impact of a new development** shall include written findings addressing the following factors:
 - 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 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 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.** 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 subordination 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 subordination 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 from Key Viewing Areas.
- F.** 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 footprint shall be utilized.

Design/Color

- 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 approved by the reviewing agency shall be included as a condition of approval.
- H.** The exterior of buildings in the GMA and structures in the SMA on lands visible from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity. Continuous surfaces of glass shall be limited to ensure visual subordination. The Scenic Resources Implementation Handbook includes a list of recommended exterior materials and screening methods

Landscaping

- 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 subordination. 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

- J. Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.
- 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.
- 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.
- 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 -visible only in the background; and
 3. The break in the skyline is the minimum necessary to provide the service.

- 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.
- 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](#).
- 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 maybe 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.**

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 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 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 1990.

6. New exploration, development (extraction or excavation), and production of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. 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 subordination 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 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 subordination 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. 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 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 subordination 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. 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 of this setting.
2. In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination 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. 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 subordination 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. 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(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 (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

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 subordination 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. 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 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 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 divisions and lot-line adjustments/replats;

(b) Storage sheds that do not require a foundation;

(c) Installation of surface chemical toilets;

(d) Hand treatment of brush within established rights-of-way; and

(e) New uses of existing structures.

(3) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including:

(a) Repair and maintenance of lawfully constructed and serviceable structures;

(b) Home gardens;

(c) Live-stock grazing;

- (d)** Cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill;
- (e)** Construction of fences;
- (f)** New utility poles that are installed using an auger, post-hole digger, or similar implement; and
- (g)** Placement of manufactured 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)** Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing.
 - (b)** 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 development that involves two or more new dwellings for the same project applicant;
 - (b)** Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
 - (c)** Public transportation facilities that are outside improved rights-of-way;
 - (d)** Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or

greater; and

- (e)** Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

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 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 are responsible for paying for evaluations of significance and mitigation plans for cultural resources that are discovered during 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 or more new residential dwellings;
 - (2)** Recreation facilities;
 - (3)** Commercial and industrial development;

- (4) Public transportation facilities;
 - (5) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater;
 - (6) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances; and
 - (7) 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 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 or historical information.
- B.** The cultural resources are determined to be culturally significant by an Tribal government, based on criteria developed by that Tribal government.
- 2.** If a project applicant's and Tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Tribal government's 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 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 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 Tribal governments when:
 - (1) A reconnaissance survey is required; or
 - (2) Cultural resources that are precontact or otherwise associated with Native Americans exist in the project area.
- b. Notices sent to 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. Tribal governments shall have 30 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 comments that describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge about them.
 - (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. Recordings, 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 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 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 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. 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 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 a Tribal government, based on criteria developed by that 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 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 Tribal governments and other interested persons shall be presented.
 - (2) All comments, recommendations, and correspondence from 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 Tribal governments for concurrence.

- a. The State Historic Preservation Office, 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 a 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 Tribal government's substantiated concerns.

- a. The Cultural Advisory Committee will formulate a recommendation regarding the significance of the cultural resources.
- b. The 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 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 Tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by 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 the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings](#) (U.S. Department of the Interior 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, 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 Tribal governments.

- a.** The State Historic Preservation Office, 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 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 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 Tribal governments.

- a. The State Historic Preservation Office, 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 affected when cultural resources are discovered during construction activities, and shall be included as conditions of approval for all review uses. All survey and evaluation reports and mitigation plans shall be submitted to the local government and the SHPO. Tribal governments shall also receive a copy of all reports and plans if the cultural resources are 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 precontact or otherwise associated with Native Americans, the project applicant shall also notify the 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. Tribal governments also shall receive a copy of all reports and plans if the cultural resources are 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 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 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 precontact/historic or modern. Representatives from the 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: 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

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 archaeological,

historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

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 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 1 inch equals 100 feet (1:1,200).
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 1 inch equals 100 feet (1:1,200).
6. A summary of all written comments submitted by 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 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 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.

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 loss of wetlands acreage and functions.
- b. 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. 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

- 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 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
 - (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 percent.
 - (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 alteration or degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology;
- c. All wetlands that are altered 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.

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.
- 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 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 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.

- 8.** Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects,

including cumulative effects, and adverse effects shall be prohibited.

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.

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 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;
- b. All reasonable measures have been applied to ensure that the structure will result in the minimum alteration or degradation 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 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 and 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 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.

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 Plans

Mitigation 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 shall satisfy the following standards and any others required by federal and state agencies:

- a. Mitigation 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 plans shall be prepared by qualified professionals.
- 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 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 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 sites.

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" 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, including 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. The Forest Service and the Gorge Commission also maintain updated lists.

- b. Enhance wildlife habitat that has been altered 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 maybe 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 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 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 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 site shall be reviewed by the Oregon Department of Fish and Wildlife.
 - (1) The approximate locations of Priority Habitats or sensitive wildlife 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 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 site,
 - (2) Ascertain whether the Priority Habitat or sensitive wildlife area site is active or abandoned,
 - (3) Determine if the proposed use may compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance, 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 site.
 - (5) Existing condition of the Priority Habitat or sensitive wildlife 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 site is not active, or
 - (2) The proposed use would not compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance.
- 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 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 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 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 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 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 sites discovered in a project area shall be described and shown on the site plan map.

5. Wildlife Mitigation Plans

Wildlife Mitigation Plans shall be prepared when a proposed use is likely to adversely affect a Priority Habitat or sensitive wildlife 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 sites, maximizes 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 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 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.
 - (2) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a Priority Habitat or sensitive wildlife 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 or 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 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 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 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 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** by the Oregon Biodiversity Information Center. This includes designated native plant communities.
 - b. Encourage the protection of plant species that are classified "Review" {list 3}, or "Watch" {list 4} by the 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 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 rare plants,
 - (2) describes the biology of the 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 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 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 rare plant shall be reviewed by the Oregon Biodiversity Information Center.
 - (1)** The approximate locations of 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 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 rare plant buffer zone.
- d.** New uses shall be prohibited within rare plant species buffer zones, except for those uses that are allowed outright.
- e.** If a proposed use must be allowed within a 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, [Rare Plant Mitigation Plans](#).

- f. The County shall submit a copy of all field surveys and Rare Plant Mitigation Plans to the 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 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 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 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 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. Rare Plant Mitigation Plans

Rare Plant Mitigation Plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a rare plant buffer zone as the result of a variance granted according to [Chapter 6](#). All plans shall meet the following guidelines:

- a.** Rare Plant Mitigation Plans shall be prepared by a professional botanist or plant ecologist.
- b.** The primary responsibility and cost of preparing 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 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.** Rare plants that will be altered shall be transplanted or replaced to the maximum extent practicable.
 - (1)** Replacement is used here to mean the establishment of 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.** Rare plants and their surrounding habitat that will not be altered 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 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.** Rare Plant Mitigation Plans shall include maps, photographs, and text. The text shall:

 - (1)** Describe the biology of rare plant species that will be affected by a proposed use.
 - (2)** Explain the techniques that will be used to protect rare plants and their surrounding habitat that will not be altered.
 - (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 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 Intensity 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. 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 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. 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 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. buffer on the site plan for 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 total buffer area on the development proposal is not decreased,
 - iii. The width reduction shall not occur within another buffer, and
 - iv. 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 the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and
 - iii. 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.

- (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.
	Unique species habitat, limited availability, high vulnerability,

Dunes	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 sensitive wildlife area or site is not active, or
 - (2) 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 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 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 water resources, and rare wildlife/plant areas and sites, that maximizes 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 resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the protected resource and the condition of the resource that will result after restoration shall be required. Reference published protection and management guidelines.
 - b. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the protected resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.
 - c. Explain the techniques that will be used to protect the protected resources and their surrounding habitat that will not be altered (for examples, delineation of core habitat of the protected 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 creation measures will be applied to ensure that the proposed use results in minimum feasible impacts to protected resources, their buffer zones, and associated habitats.
 - e. Show how the proposed restoration, enhancement, or creation mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a protected 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 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 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 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 resource of equal or greater benefit may be substituted, provided that no net loss of protected resource functions occurs and provided the County, in consultation with the appropriate state and federal agency, determine that such substitution is justified.
 - e. Rare plants that will be altered shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project

applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted

- 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 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 created wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

- g.** Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the 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 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. 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. 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. Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.
- d. The following uses may be permitted:
 - (1) Parking areas, not to exceed a site-wide capacity of 10 vehicles, when associated with any allowed uses in Recreation Intensity Class 1. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.
 - (2) Trails for hiking, equestrian, and mountain biking use.
 - (3) Pathways for pedestrian and bicycling use.
 - (4) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

- (5) Scenic viewpoints and overlooks.
- (6) Wildlife/botanical viewing and nature study areas.
- (7) River access areas.
- (8) Boat docks, piers, or wharfs.
- (9) Picnic areas.
- (10) Restrooms/comfort facilities.

2. Recreation Intensity Class 2 (Low Intensity)

- 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. 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. 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. 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.
 - (3) Boat ramps, not to exceed two lanes.
 - (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. **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. 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. The following uses may be permitted.
 - (1) All uses permitted in Recreation Intensity Classes 1 and 2.
 - (2) Parking areas not to exceed a site-wide capacity of 75 vehicles, when associated with any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units shall be included in this number.
 - (3) 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.
 - (4) Boat ramps, not to exceed three lanes.
 - (5) Concession stands, pursuant to applicable policies in this chapter.
 - (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. **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: 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. 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. 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. The following uses may be permitted.
 - (1) All uses permitted in Recreation Intensity Classes 1, 2, and 3.
 - (2) Parking areas, not to exceed a site-wide capacity of 250 vehicles, with any allowed uses in Recreation Intensity Class 4. Parking spaces for campground units are to be included in this number.
 - (3) Horseback riding stables and associated facilities.
 - (4) 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.
 - (5) Boat ramps.
 - (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):

- 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:

- (1)** Where applicable, new trails should incorporate existing segments of older or historic trails,

- abandoned roads and railroad rights-of-way, and other previously developed areas suitable for recreation use to the maximum extent practicable.
- (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 access to the Columbia River or its tributaries: applicants shall demonstrate that the new facility is consistent with and does not affect or modify tribal treaty rights.
 - F.** For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries shall comply with the guidelines, as defined in [Sections 14.800](#) and [14.810](#), 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 Recreation Intensity Class 3 and 4 projects shall demonstrate how the proposed recreation development will be equitable and accessible (regardless of income level, ethnicity, gender, ability or age). Applications for public recreation development in RIS 1 and 2 shall meet this standard to the maximum extent practicable.
 - I.** Applications shall demonstrate compliance with the social, physical and managerial setting characteristics in the applicable Recreation Intensity Class description.

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.

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. Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable. These trees may be used to satisfy requirements for perimeter and interior landscaped buffers.
4. Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.
5. Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.
6. Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.
7. Signs shall be limited to those necessary to provide relevant, recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.
8. 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.
9. A majority of trees, shrubs, and other plants in landscaped areas shall be species native to the landscaped setting in which they occur. The landscape setting descriptions and design guidelines are found in [Section 14.400](#) 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.
10. For any parking area with over 50 spaces, interior landscaped buffers breaking up continuous areas of parking into discrete "islands" shall be provided. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.
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.
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. 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.

Variations 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, Variations 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 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 are intended to apply to individual recreation facilities. 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 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)

- 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. The maximum design capacity for parking areas shall be 10 vehicles.

D. 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 to experience relaxation, physical fitness, outdoor learning, and where there is a moderate probability to experience solitude. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads. 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, 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, 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.** The maximum design capacity shall be 25 vehicles.
- F.** 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)

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. 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)

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 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 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

- 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 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 when:
 - a. proposed on public lands, or
 - b. proposed in or adjacent to the Columbia River or its tributaries that support anadromous or resident fish.
2. Notices sent to the Tribal governments shall include a site plan and also may include supplemental information and a proposed treaty rights protection plan.
3. Proposed new review uses and development located in, 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.**
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.**

6. Tribal governments shall have 30-calendar days from the date a notice is mailed to submit substantive written comments to the County Planning Office. 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.
2. Any substantive comments, recommendations, or concerns expressed by Tribal governments during the consultation meeting shall be resolved by the County or project applicant through revisions to the project application, conditions of approval, and, if necessary in a treaty rights protection plan. The protection plan shall include measures to avoid effects or modifications to treaty and other rights of any Indian tribe. 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 Tribal governments. 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' comments, recommendations, or concerns.
 - b. If the final decision contradicts the comments, recommendations or concerns of 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 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 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 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. Tribal governments are identified as parties to be consulted during the inventory, evaluation and protection of cultural resources.

