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## CHAPTER 2 - DEVELOPMENT APPROVAL PROCEDURES

### SECTION 2.010 Purpose

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

### SECTION 2.020 Review Process

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

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

A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior Scenic Area regulations (e.g., Columbia River Gorge National Scenic Area Final Interim Guidelines, original Management Plan), subject to the following standards:

- A. The applicant(s) shall apply for the same development that was reviewed in the original decision.
- B. The development shall remain in its current location.
- C. The application shall be reviewed by Wasco County and shall be governed by all applicable application and review procedures indicated in this Chapter.
- D. The entire development shall be reviewed to ensure that it would fully comply with all the current criteria in Chapter 14 (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources) as well as any other applicable review criteria.
- E. The new decision shall supersede the original decision.
- F. The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with all the current criteria.

## SECTION 2.040 Coordination of Development Approval

- A. The Director shall be responsible for the coordination of a development application and decision-making procedures and shall approve developments when proper application is made and the proposed development is in compliance with the provisions of this Ordinance, the Wasco County Comprehensive Plan, and the Management Plan for the Columbia River Gorge National Scenic Area.
- B. The coordination of development application shall include the opportunity for the applicant to apply for all permits necessary for a development project at one time. The consolidated procedure shall be subject to the time limitations set out in this chapter.
- C. After an application has been submitted, no building permit application for the proposed use shall be signed until final action has been taken and all required conditions have been met. Following final action on the application, the issuance of zoning approval on a building permit application shall be in conformance with the zoning regulations of this Ordinance, and any conditions of development approval.

## SECTION 2.050 Wasco County Application Authority

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

- A. The Director shall have the authority to review the following applications for Type II Administrative Actions, and shall follow the procedure provided by this Ordinance to accomplish such review.
  - 1. Basic Provisions (Chapter 3)
  - 2. Uses permitted subject to Expedited Review (Chapter 3).
  - 3. Uses permitted Subject to Additional or Referenced Standards (Chapter 3)
  - 4. Conditional Use Reviews (Chapter 5)
  - 5. Administrative Variances (Chapter 6)
  - 6. Temporary Use Permits (Chapter 8)
  - 7. Non-conforming Use Reviews (Chapter 13)

8. Scenic Area Reviews (Chapter 14)
  9. Emergency/Disaster Response (Chapter 16)
  10. Partition Approvals, except as provided for in 2.050(B), re-plats and property line adjustments. (Chapter 21)
  11. Permitted uses which require the interpretation or the exercise of policy or legal judgment.
- B. The following applications for Type III and Type IV Quasi Judicial and Legislative Actions shall be heard by the Planning Commission, pursuant to Sections 2.100, 2.180, 2.190, 2.200, 2.210, and 2.220 of this Ordinance:

#### Type III Actions

1. Appeals of Decision of Director made pursuant to 2.050(A) and any ministerial action of the Director.
2. Matters which the Director elects not to review, pursuant to 2.050(A).
3. Revocation of Conditional Use Permits (Chapter 5)
4. Variances (Chapter 6)
5. Recreational Vehicle Parks (Chapter 17)
6. Cluster Developments (Chapter 18)
7. Preliminary Partitions involving private or public road approval (Chapter 21)
8. Subdivisions (Chapter 21)
9. Private Road Approvals (Chapter 21)

#### Type IV Actions

10. Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Chapter 9)
11. Recommendation to the County Governing Body on Zone Change and/or Ordinance Amendments (Chapter 9)
12. Recommendation to the County Governing Body on street dedications (Chapter 21)

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

Type III Actions

1. Appeals of a Planning Commission Decision made pursuant to 2.050(B)(1) – (9) .

Type IV Actions

2. Plan Amendments (Chapter 9)
3. Zone Change and Ordinance Amendments (Chapter 9)
4. Street Dedications (Chapter 21)

SECTION 2.060 Who May Apply

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

1. All owner(s) of the property which is the subject of the application; or
2. The purchaser(s) of such property who submits a duly executed written contract, or copy thereof, which has been recorded with the Wasco County Clerk; or
3. The purchaser(s) of such property who submits a duly executed earnest money agreement stating the land use action proposal; or
4. A lessee in possession of such property who submits written consent of the owner(s) to make such application; or
5. Resolution of the County Governing Body; or
6. County Road Department, (when dealing with land involving public works projects).

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

## SECTION 2.070 Pre-Application Conference

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

## SECTION 2.080 Completeness

### A. Complete Application Required:

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

1. A complete application form, including all applicable information and review criteria listed on the application form, the Complete Application Submittal requirements of Section 14.020, and any additional information indicated throughout this ordinance; and
2. The required fee, pursuant to Section 2.090.
3. Completeness Time Frame
  - a. If an application for a permit is incomplete, the applicant shall be notified in writing of exactly what information is missing within 30 days of receipt of the application and be allowed to submit the missing information. The application shall be deemed complete upon receipt of all of the missing information.
  - b. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection a. of this section and has not submitted information.

### B. Quasi Judicial Time Limitations

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

## SECTION 2.090 Filing Fees

- A. Any application filed with the Planning Department shall be accompanied by the appropriate filing fee to reimburse the County for processing costs attendant upon the application.
- B. Fees shall not exceed the actual or average cost of providing the service.
- C. Any and all fees shall be established by County Governing Body Order, be separate from this Ordinance, and may be revised whenever necessary.
- D. A filing fee may be waived by the County Governing Body following the procedures indicated in the current fee schedule.
- E. All fees received pursuant to this Section shall be deposited in the County General Fund.
- F. Fees are not transferable or refundable.

## SECTION 2.100 Notice Requirements

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

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

### A. Type II - Administrative Action

- 1. Notice Recipients - Notice for an Administrative Action, pursuant to 2.050(A) shall be mailed at least fifteen (15) days prior to a decision to the following:
  - a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;



- b. All owners of property and agencies as stipulated by the notification matrix (Table 2-1);
  - c. Any affected governmental agency or public district within whose boundary the subject property lies;
  - d. The city within whose recognized Urban Area Boundary the subject property lies or whose facilities may be impacted;
  - e. Other persons as may be clearly and necessarily affected by the result of the development request and as required due to the presence of Scenic, Natural or Cultural Resources.
  - f. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Indian tribal governments.
  - g. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.
  - h. Owners of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty-five (35) feet tall outside the runway approach surface.
  - i. For an expedited review the notice shall be the preliminary decision pursuant to Sections 2.110 and 2.120. Written comments on the proposed development will be received within 12 days from the date a notice is sent from the four Indian tribal governments, the Gorge Commission, the Forest Service, all landowners within 200 feet of the subject parcel, and any other interested parties. If written comments are received from any of the above described, the comments will be included in the review and a new decision with appeal period will be issued pursuant to Sections 2.110 and 2.120. If no comments are received from these entities, the decision will be considered final unless appealed by another party pursuant to Section 2.150.
2. Contents of Notice - Notice for a Type II - Administrative Action shall be filed with the Director and shall include the following information:
- a. The location, title of the request and the date such notice was sent;
  - b. The general location of the subject property and legal description;
  - c. The legal owner of record and the name of applicant seeking review;

- d. The present zoning of the subject property and applicable Ordinances and sections that apply to the application at issue;
- e. The nature of the application;
- f. The deadline for filing comments on the request.
- g. That failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
- h. The name of a local government representative to contact and the telephone number where additional information may be obtained;
- i. That a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- j. That a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
- k. General explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- l. For expedited reviews, the notice shall also include a copy of the application which shall only be required to be sent to the Gorge Commission, Forest Service and four Indian Tribal Governments.

### 3. Additional Notice Criteria

- a. The County shall determine if a wildlife management plan as required in 14.600(C)(5), or rare plant protection and rehabilitation plan as required in 14.600(D)(5) is needed within seven (7) days of the close of the fifteen (15) day public comment period.
- b. For proposed uses or developments where a cultural resource survey (Reconnaissance or historic) is required to be performed by the Commission in accordance with 14.500(B), the survey shall be completed by the close of the fifteen (15) day public comment period.
- c. All cultural resource surveys shall be forwarded to the State Historic Preservation Office and Indian Tribes for a thirty (30) day cultural resource review period in accordance with Section 14.500(C)(3).

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

#### B. Type III - Quasi Judicial Public Hearing

1. Notice Recipients - At least twenty (20) days prior to the date of a quasi-judicial public hearing listed hearing under 2.050(B)(1) – (9) and ten (10) days prior to the date of a public hearing listed under 2.050(C)(1), notice shall be sent or provided to the same list indicated in (A)(1) above unless otherwise specified, in addition to the following:
  - a. Notice shall be given by publication in the official newspaper of Wasco County at least fifteen (15) days prior to the date of a quasi-judicial public hearing listed under 2.050(B)(1) – (9) and ten (10) days prior to the date of a hearing listed under 2.050(C)(1).
  - b. Notice of Review by the County Governing Body pursuant to 2.050(C)(1) shall also be posted in at least two (2) different public locations and published in the official newspaper of Wasco County at least ten (10) days prior to the date set for the hearing.
2. Contents of Notice - In addition to the Contents of the Notice listed in (A)(2) above, with the exception of (f) & (g), the notice for a quasi judicial public hearing listed under 2.060(B) (1) – (9) and (C)(1) shall also include the date, time and place of hearing and the name of the hearing body;
3. Additional Notice Criteria - The provisions of (A)(3) above shall be applicable to quasi judicial public hearings listed under 2.050(B)(1) – (9) and 2.050(C)(1).

#### C. Type IV - Legislative Hearing Notice

1. Planning Commission Notice Requirements – Notice shall be sent at least fifteen (15) days prior to the date of a legislative hearing.
  - a. Recipients to be determined by Wasco County Governing Body in addition to the following agencies:
    - (1) The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Indian tribal governments

- (2) All applicable local, state, and federal natural resource agencies
  - (3) State Historic Preservation Office
  - (4) Historic Columbia River Highway Advisory Committee
  - (5) Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.
  - (6) Owners of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty-five (35) feet tall outside the runway approach surface.
- b. Notice shall be published in accordance with (B)(1)(a) above.
2. County Governing Body Notice Requirements – Notice shall be sent at least ten (10) days prior to the date of a legislative hearing.
- a. In addition to agencies listed in (C)(1)(a) above, excluding recipients determined by Wasco County, recipients shall include parties of record who:
    - (1) have submitted written testimony,
    - (2) provided testimony at the Planning Commission,
    - (3) or those who have requested in writing to receive notice
  - b. Notice shall be published in accordance with (B)(1)(a) and (b) above.

**D. Transportation Related Notice**

1. Notice of a legislative hearing will be sent to public agencies and local jurisdictions (including those providing transportation facilities and services) that may be impacted by the proposed action. Affected agencies and jurisdictions could include the Department of Environmental Quality, the Oregon Department of Aviation, cities within Wasco County, and neighboring jurisdictions.
2. Notice of a legislative or quasi-judicial hearing for any proposal that includes a new transportation facility or improvement, and where these facilities or improvements include or may impact a collector or arterial street, will be sent to the Oregon Department of Transportation and any special interest transportation groups as appropriate. Special interest transportation groups

could include trucking organizations, bicycle and pedestrian interest groups, and public transit providers. Information that should be conveyed with the notice includes the following:

- a. Project location
- b. Proposed land use action
- c. Location of project access point(s)

#### SECTION 2.110 Administrative Action Procedure of the Director

A. Within the time period specified in Section 2.080, the Director shall:

1. Publish or otherwise file notice pursuant to Section 2.100;
2. Prepare findings of fact and conclusions of law; and
3. Prepare a decision to approve or deny the request. Approvals may include conditions considered necessary to assure conformance with the Comprehensive Plan and the Management Plan for the Columbia River Gorge National Scenic Area pursuant to 2.120(C).

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

#### SECTION 2.120 The Decision of the Director

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

1. The burden of proof is placed upon the petitioner seeking an action pursuant to the provisions of this Chapter. Unless otherwise provided for in this Chapter, such burden shall be to prove:
  - a. The proposed action fully complies with the applicable map elements of the relevant Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area and also the goals and policies of the applicable plans.
  - b. The proposed action is in accordance with the applicable criteria of this Ordinance.

2. Written comments from parties or other persons.
- B. In all cases, the Director shall enter findings and conclusions to justify their decision.
- C. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time.
  2. Such conditions shall be reasonably conceived to fulfill public needs emanating from the proposed land use as set forth in the application in the following respects:
    - a. Protection of the public from the potentially deleterious effects of the proposed use; or
    - b. Fulfillment of the need for public service demands created by the proposed use.
    - c. Promote the public health, safety and welfare and provide protection and enhancement of the scenic, natural, cultural and recreation resources in the Columbia River Gorge National Scenic Area.
  3. The conditional approval may require the owner of the property to sign a contract with the County for enforcement of the conditions. Such contract shall be executed within thirty (30) days after conditional approval is granted, provided, however, that the Director may grant time extensions due to practical difficulty. The Director shall have the authority to execute such contracts on behalf of the County. If a contract is required by a conditional approval, no zoning approval on a building permit application shall be issued for the use covered by the application until the executed contract is recorded on the real property records of Wasco County and filed in the County Journal. Such contract shall not restrict the power of subsequent administrative action, with or without conditions. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by Wasco County by appropriate action in law or suit in equity for the benefit of public health, safety and welfare.
  4. Failure to fulfill any conditions of approval within the time limitations imposed may be grounds for initiation of Administrative Action or revocation of approval by the Director.
  5. A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Governing Body or a cash deposit from the property

owner(s) or contract purchaser(s) in such amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond or deposit shall be posted at the same time the contract containing the conditions of approval is filed with the Wasco County Clerk.

- D. If an application is denied by the Director, and no higher authority reverses such denial upon appeal, no new application for the same or substantially similar action shall be filed for at least twelve (12) months from the date of the final order of the action denying the application.

#### SECTION 2.130 Notice of a Decision

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

1. The applicant(s) and all owners or contract purchasers of record of the property which is the subject of the application.
2. All owners of property as stipulated by the notification matrix (Table 2-1). For an expedited review, the required notification area shall be limited to landowners within 200 feet of the perimeter of the subject parcel.
3. Any affected governmental agency or public district within whose boundary the subject property lies.
4. The city within whose recognized Urban Area Boundary the subject property lies.
5. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Indian tribal governments.
6. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.

- B. Notice of a decision shall contain:

1. Identification of the application;
2. Other information pertinent to the application, if any;
3. The date of the filing of the decision;
4. Notice that any party may appeal an expedited review decision within twelve (12) days and all other review decisions within fifteen (15) days from the date

such notice was sent by filing a timely statement with the Director.

- C. The decision of the Director pursuant to 2.050(A) shall be final unless an appeal from an aggrieved person is received by the Director within twelve (12) days for an expedited review decision and fifteen (15) days for all other review decisions after the filing of a decision on an Administrative Action or unless the Commission or County Governing Body on its own motion, orders review for an expedited review decision within twelve (12) days and all other review decisions within fifteen (15) days after the filing of the proposed decision.
  
- D. Notice of a legislative decision shall be filed in the records of the Director and also mailed to the following:
  - 1. Any affected governmental agency or public district within whose boundary the subject property lies;
  - 2. The city within whose recognized Urban Area Boundary the subject property lies;
  - 3. The USDA Forest Service, the Columbia River Gorge Commission, the State of Oregon, and the four Indian tribal governments.
  - 4. Any individuals or groups having a subscription to receive notice of all planning actions taken by the Wasco County Planning and Development Office.
  - 5. Parties of record who:
    - (a) have submitted written testimony; or
    - (b) provided testimony at either the Planning Commission or County Governing Body hearing; or
    - (c) those who have requested in writing to receive the decision.
  
- E. Notice of a decision shall contain:
  - 1. Identification of the application;
  - 2. Other information pertinent to the application, if any;
  - 4. The date of the filing of the decision by the Wasco County Governing Body;
  - 5. Notice that any party may appeal a decision within thirty (30) days from the date such notice was sent by filing a timely statement with the Columbia River Gorge Commission.



#### SECTION 2.140 Recordation of Conditions of Approval

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

#### SECTION 2.150 Appeal from Decision of the Director

- A. Any action taken by the Director or the Director's designee in the interpretation, administration or enforcement of this ordinance shall be subject to review by the Planning Commission.
- B. Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the appeal shall not be heard and the contested decision shall become final. For expedited reviews, party status shall be given to any person.
- C. The Approving Authority may review the action of the Director upon receipt of a Notice of Appeal as prescribed in this section. For the purpose of this section, an appeal shall be filed with the Director no later than twelve (12) days for an expedited review and fifteen (15) days for all other reviews following the date of the decision or action of the Director. The decision of the Director may also be reviewed by the County Governing Body upon its own motion passed within twelve (12) days for an expedited review and (15) fifteen days for all other reviews following the date of the written decision sought to be reviewed if no appeal is filed. County Governing Body review shall be conducted pursuant to Section 2.170.
- D. Every Notice of Appeal shall contain:
  - 1. A reference to the application sought to be appealed.
  - 2. A statement as to how the petitioner qualifies as a party.
  - 3. The specific grounds relied upon in the petition request for review.
  - 4. The date of the final decision of the action.
  - 5. The required fee, unless waived pursuant to Section 2.090.

- E. Members of the Approving Authority shall neither:
1. Communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; nor
  2. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.
- F. Appeal of an administrative decision to the Planning Commission shall be "de novo"; i.e., conducted as a new hearing before the public.
- G. The review shall be accomplished in accordance with the Rules of Procedure adopted by the County Governing Body. The Approving Authority may continue its hearing from time to time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Approving Authority no additional notice need be given of continued hearings if the matter be continued to a certain date.
- H. All evidence offered and not objected to shall be received unless excluded by the Approving Authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to Oregon Revised Statutes 183.450 except as otherwise provided for herein.
- I. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area pursuant to 2.120(C).
1. For all cases the Approving Authority shall make a decision based on findings and conclusions from the record before it as justification for its action.
  2. The Director shall send a copy of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director.

## SECTION 2.160 Review of a Decision of the Planning Commission

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

- A. Review of the decision of the Planning Commission:
  - 1. Shall be made by the County Governing Body, pursuant to Section 2.170, upon any party filing a Notice of Review with the Director within fifteen (15) days from the date of the final decision sought to be reviewed; or
  - 2. May be made by the County Governing Body, pursuant to Section 2.170, on its own motion passed within fifteen (15) days from the date of the final decision sought to be reviewed.
- B. Notice of the time and place of the review together with any Notice of Review filed shall meet the requirements of Section 2.100, Notice Requirements.
- C. Every Notice of Review shall contain:
  - 1. A reference to the decision sought to be reviewed;
  - 2. A statement as to how the petitioner qualifies as a party;
  - 3. The specific grounds relied upon in the petition request for review; and
  - 4. The date of the decision sought to be reviewed.
- D. A Notice of Review shall be accompanied by a fee as set forth on the fee schedule established by the County Governing Body.
  - 1. If the Court does not desire a transcript, the applicant or any party may request a transcript. Any such transcript request shall be paid for by the person requesting it. The estimated cost of the transcript shall be specified by the Director. Within five (5) days of such estimate, the person filing the Notice of Review shall deposit the estimated cost with the Director. Any deposit excess shall be returned to the depositing person. Failure to comply with this subsection shall be a jurisdictional defect.
  - 2. If a transcript is desired by the Court, the costs shall be borne by Wasco County.

#### SECTION 2.170 Review by the County Governing Body

- A. The review of the decision of the Planning Commission by the County Governing Body shall be conducted as a "de novo" hearing, including but not limited to the record established at the Planning Commission level.
- B. Review by the County Governing Body upon appeal by a party shall be limited to

the grounds relied upon in the petition request for review.

- C. The County Governing Body may remand the matter to the Planning Commission if it is satisfied that testimony or other evidence could not have been presented at the hearing before the Planning Commission. In deciding such remand, the County Governing Body shall consider and adopt findings and conclusions respecting:
  - 1. Prejudice to parties;
  - 2. Convenience or availability of evidence at the time of the initial hearing;
  - 3. Surprise to opposing parties;
  - 4. Date notice was sent to other parties as to an attempt to admit; and
  - 5. The competency, relevancy and materiality of the proposed testimony or other evidence.
- E. Only those members of the County Governing Body reviewing the entire record may act on the matter reviewed. The agreement of at least two (2) members is necessary to amend, reverse, or remand the action of the Planning Commission. Upon failure of at least two (2) members to agree, the decision of the Approving Authority below shall stand.
- F. The Notice of a Decision shall meet the requirements of Section 2.130.

#### SECTION 2.180 Hearing Procedure

- A. In the conduct of a public hearing, the Approving Authority shall have the authority, pursuant to Rules of Procedure approved by the County Governing Body, to:
  - 1. Determine who qualifies as a party.
  - 2. Regulate the course, sequence and decorum of the hearing.
  - 3. Dispose of procedural requirements or similar matters.
  - 4. Rule on offers of proof and relevancy of evidence and testimony.
  - 5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony.
  - 6. Take such other action appropriate for conduct commensurate with the

nature of the hearing.

7. Grant, deny, or in appropriate cases, attach conditions pursuant to 2.120(C) of this Chapter to the matter being heard.
- B. Order of Procedure: Unless otherwise specified, the Approving Authority, in the conduct of a hearing, shall:
1. Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing.
  2. Recognize parties.
  3. Ask for disclosure of any potential conflicts of interest by those on the decision-making body.
  4. Ask parties to the hearing if there is a challenge to the ability of any member to make an unbiased decision on the case.
  5. Request the Director or their designee to present a summary of staff findings and recommendation, if any, and explain any graphic or pictorial displays which are part of the staff report.
  6. Testimony
    - a. De Novo Hearings:
      - (1) Allow the applicant to be heard first, on their own behalf or by representative.
      - (2) Allow parties or witnesses in favor of the applicant's proposal to be heard.
      - (3) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.
      - (4) Upon failure of any party to appear, the Approving Authority may take into consideration written material submitted by such party.
      - (5) Allow only the applicant to offer rebuttal testimony. The scope and extent of rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.
    - b. Quasi Judicial Appeal to County Governing Body:
      - (1) Allow the appellant to be heard first, on their own behalf or by

representative.

- (2) Allow parties or witnesses in favor of the appellant to be heard.
  - (3) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.
  - (4) Upon failure of any party to appear, the Approving Authority may take into consideration written material submitted by such party.
  - (5) Allow only the appellant to offer rebuttal testimony. The scope and extent of rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.
11. Close the hearing to public testimony. Questions may be asked at this time by the Approving Authority. Questions by the Director or his designee may be allowed by the Approving Authority upon request.
  12. At the conclusion of the hearing, the Approving Authority shall either make a decision and state findings which may incorporate findings proposed by any party, or the Director, or may take the matter under advisement. The Approving Authority may request proposed findings and conclusions from any party to the hearing.
  13. The Approving Authority, before finally adopting findings and conclusions, may circulate the same in proposed form to the parties for written comment. All actions taken by the Approving Authority pursuant to adopting findings and conclusions shall be made a part of the record. The decision, findings and conclusions which support the decision of the Approving Authority shall be final when signed by the Approving Authority. For the purpose of signing the decision, findings and conclusions, the Approving Authority may be:
    - a. Planning Commission Decision: Either the Chairman of the Planning Commission or the Director of Planning or both.
    - b. County Governing Body Decision: All members of the County Governing Body present and deciding upon the application.
  14. Within thirty (30) days of the date of public hearing the Approving Authority shall grant, deny or, in appropriate cases, pursuant to 2.120(C), attach such conditions as may be necessary to carry out the Comprehensive Plan in approving the proposal being heard. The Director may extend the thirty (30) day deadline for rendering a decision upon consent of the applicant. The Director shall notify parties of the decision by mail.
  15. The Approving Authority shall render a decision, may affirm, reverse or

modify the action of a lesser authority, and may reasonably grant approval subject to the conditions necessary to carry out the Comprehensive Plan pursuant to 2.120(C) of this Ordinance.

- a. For all cases the Approving Authority shall make a decision based on the record before it as justification for its decision.
- b. The Director shall send a notice of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director pursuant to Section 2.130, Notice of a Decision.

#### SECTION 2.190 Establishment of Party Status

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

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

- B. A request for establishment of party status may be made at least ten (10) days before the date set for a quasi-judicial public hearing by any person who files a written statement regarding the application being considered.
- C. Seven (7) or more days prior to the date set for a public hearing, the Director shall mail the applicant any statements that have been filed and a copy of the staff report.
- D. With respect to applications under 2.050(B), all persons may submit written comments or provide oral testimony prior to the close of a Planning Commission de-novo hearing. These persons shall be automatically given party status.
- E. With respect to applications under 2.050(C)(1), the Approving Authority may authorize a person to have party status, at any time prior to the close of a hearing, if that person is not otherwise a party, as defined by Section 1.200 of this Ordinance.
- F. A request for establishment of party status for an Administrative decision pursuant to 2.050(A) of this Chapter shall be made by filing a written statement within a ten (10) day notification period. Such statement shall include:
1. The name, address and telephone number of the person filing the statement;
  2. How the person qualifies as a party; as defined in Section 1.200 of this Ordinance; and

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

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

#### SECTION 2.200 Official Notice

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

1. All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.
2. The Comprehensive Plan and other officially adopted plans, ordinances, rules and regulations of Wasco County and comprehensive plans and implementing regulations of cities within Wasco County.

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

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

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

- A. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- B. No person shall testify without first receiving recognition from the Approving Authority and stating full name and address.
- C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence. Formal rules of evidence as used in courts of law shall not apply. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.
- D. Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing shall not be permitted.
- E. The person in charge of the decision making body shall have the authority, at such person's discretion, to inform, reprimand, or remove any person or persons for violations of the above rules of conduct. Violations of the above rules of



conduct shall further be grounds for the immediate suspension of the hearing.

#### SECTION 2.220 Approval, Rejection, Modification

- A. Any application may be approved, rejected and modified, or approved subject to conditions.
- B. Any change to an application approved pursuant to the Wasco County NSA LUDO which represents a major deviation from the approved development action shall be processed as a new action.
- C. Any change to an application approved pursuant to the Wasco County LUDO which represents an immaterial deviation from the approved development action shall be reviewed by the Wasco County Planning Department for consistency with the applicable criteria in this ordinance and the findings and conclusions of the original approval. If the Planning Director approves a minor change, a new notice of decision indicating the change shall be given to all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four Indian Tribal governments, the Columbia River Gorge Commission, and anyone who submitted comments during the comment period on the original land use application. The change itself is subject to appeal under the same time frames applicable to the original decision.
- D. Any change to an application approved pursuant to the Wasco County NSA LUDO that is located entirely within the approved development footprint and reduces any exterior dimension without increasing any other dimension and without altering any approved exterior structural colors and materials may be approved by the Director upon submittal of a formal request, a new site plan, and any other information required for review of the requested change. This change will not require an additional pre-notice, findings, notice of decision or appeal period.

#### SECTION 2.230 Appeals to the Gorge Commission

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

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

- B. The Gorge Commission shall consider an appeal at a hearing held for that purpose, only after notice to the petitioner, the County and others eligible to

become parties to the proceeding. The Gorge Commission's hearing shall be based upon the record before the County.

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

#### SECTION 2.240 Expiration of Approvals

- A. Notice Not Required: Expiration of any land use approval issued pursuant to this ordinance shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.
- B. Land Use Approvals without Structures: Any land use approval issued pursuant to this Ordinance for a use or development that does not include a structure shall expire two years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the county recorder or auditor. The expiration date for the validity of a land use approval is from the date of the expiration of the appeal period and not the date the decision was issued.
- C. Land Use Approvals with Structures: Any land use approval issued pursuant to this Ordinance for a use or development that includes a structure shall expire as follows:
  - 1. When construction has not commenced within two years of the date the land use approval was granted, or
  - 2. When the structure has not been completed within two years of the date of commencement of construction.

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

- D. Commencement of Construction: As used in C(1) above, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

E. Completion of Structure: As used in C(2) above, completion of the structure shall mean:

1. Completion of the exterior surface(s) of the structure and
2. Compliance with all conditions of approval in the land use approval.

F. Vested Rights

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

#### SECTION 2.250 Extension of Validity of Land Use Approvals

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

- A. The Director may grant one 12-month extension to the validity of a land use approval if they determine that events beyond the control of the applicant prevented commencement of the use or development (applicable to 2.240(B) above) or commencement of construction (applicable to 2.240(C)(1) above) within the original two-year time frame.
- B. The Director may also grant one 12-month extension if they determine that events beyond the control of the applicant prevented completion of the structure (applicable to 2.240C(2) above) within the original two-year time frame.
- C. A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.
- D. Approval or denial of a request for extension shall be considered an administrative decision.

#### SECTION 2.300 Planning Commission Rules

A. Membership

The Commission shall consist of seven (7) County residents appointed by the

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

B. Disqualification

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

C. Officers

The Commission shall:

1. At the first meeting of each calendar year elect from among their appointed members, to serve for no longer than twelve (12) months, a Chair for their body. The Chair shall preside at all meetings, shall appoint and serve ex officio upon all committees, shall compel the attendance of members and witnesses, shall administer oaths, and sign the minutes of meetings after the same be approved by the body.
2. At said meeting, select from among their appointed members, to serve no longer than twelve (12) months, as Vice-Chair for their body. The Vice-Chair shall perform the duties of Chair whenever that officer is absent, ill, disqualified or otherwise unable to act.

D. Legal Advisor

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

E. Meetings

The Commission shall meet upon call of the Chair pursuant to such rules as they may from time to time adopt. Meetings of the Commission shall normally be held on the same day of the month established by the Commission, unless such day is a legal County holiday, in which case the commission shall decide upon the day to

meet at its previous meeting. All meetings shall be public. All meetings of the Commission shall be publicized by giving notice thereof in a newspaper of general circulation pursuant to 2.100(B), Notice Requirements.

Table 2-1 NOTICE OF APPLICATION REQUIREMENTS

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

Events in Large-Scale Agricult. LUD								
Agriculture LUD – Review uses within 1000' of a rare plant except non-farm SFD and Commercial Events in Large-Scale Agriculture LUD	X	X	X	X	X			X
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X		X	X	
Agriculture LUD – Non-farm SFD or Commercial Events in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X		X		X
Commercial LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Commercial LUD – Review uses within 1000' of a rare plant	X	X	X	X		X		X
Recreation LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Recreation LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Recreation LUD – Review uses within 1000' of a rare plant	X	X	X	X		X		X
Open Space LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Open Space LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Open Space LUD – Review uses within 1000' of a rare plant	X	X	X	X	X			X
Agriculture-Special LUD – Review uses	X	X	X	X	X			X
Forest LUD – Review uses except utility facilities, railroads, home occupations,	X	X	X	X	X			

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



process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, Commercial Events, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site								
Forest LUD – Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, Commercial Events, temp. asphalt/batch plants, expansion of non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X		X		X
Commercial LUD – Review uses except those within 1000' of a sensitive area or site, or rare plant.	X	X	X	X	X			
<b>SPECIAL MANAGEMENT AREAS</b>								
Review uses – All LUDs	X	X	X	X	X		X	