

SECTION 14.600 Natural Resources (GMA Only)

A. Wetlands

1. Purpose

- a. Achieve no overall net loss of wetlands acreage and functions.
- b. Increase the quantity and quality of wetlands.

2. Rules for Delineating Wetlands Boundaries

- a. The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Fish and Wildlife Service 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.
- b. 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).
- c. 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)
 - (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.
- d. The County may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation.
- e. 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.
 - (2) A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.
 - (3) 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.
 - (4) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody 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.
 - e. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.
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; and

- (3) 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 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 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.

5. Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands. The uses listed in (4) above may only be allowed upon findings that:

- a. Practicable alternatives, as determined by E below, Practicable Alternative Test, minimizing the impacts of the structure do not exist;
- b. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of a wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology;
- c. All wetlands that are altered or destroyed shall be restored, replaced, or enhanced according to (8) below, Wetlands, Compensation Plan
- d. The structure will be constructed using best management practices;
- 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.

6. Other Uses and Activities Located in Wetlands or Wetland Buffer Zones.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) and Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Wetlands as specified in (4) above, other uses authorized by the applicable zoning designation may be allowed in wetlands and wetland buffer zones subject to (7) below, Site Plans, the remaining applicable sections of this Chapter and the following criteria:

- a. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by E, Practicable Alternative Test.
- b. The proposed use is in the public interest as determined by F , Public Interest Test.
- c. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.
- d. Groundwater and surface-water quality will not be degraded by the proposed use.
- e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.
- f. The proposed use complies with all applicable federal, state, and local laws.
- g. Areas that are disturbed during construction of the proposed use will be rehabilitated to the maximum extent practicable.
- h. Unavoidable impacts to wetlands will be offset through the deliberate restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts. Wetlands restoration, creation, and enhancement shall be in accordance with Subsection (8) below, Wetlands Compensation Plans.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

- (1) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.
- (2) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.
- (3) Wetlands restoration, creation, and enhancement projects shall use native vegetation.
- (4) The size of replacement wetlands shall equal or exceed the following ratios. The first number specifies the acreage of wetlands requiring replacement and the second number specifies the acreage of wetlands altered or destroyed.
 - (a) Restoration: 2:1
 - (b) Creation: 3:1
 - (c) Enhancement: 4:1
- (5) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands function occurs.
- (6) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this standard is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.
- (7) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this guideline is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.
- (8) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.
- (9) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The project applicant shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

7. 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.

8. Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create, or enhance wetlands. They shall satisfy the following guidelines:

- a. Wetlands compensation plans shall be prepared by a qualified professional.
- b. The primary responsibility and cost of preparing wetland compensation plans shall be borne by the applicant. If the applicant has no practicable alternative, according to E below, Practicable Alternative Test, to locating within the wetland or wetland buffer area, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.
- c. Wetland compensation plans shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
- d. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. This assessment shall include information on flora, fauna, hydrology, and wetlands functions.
- e. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement, wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.
- f. 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 Court 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.
 - (ii) A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

- (iii) 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.
 - (iv) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody 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 highwater-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, 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 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 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 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, as determined by E below, Practicable Alternative Test, minimizing the impacts of the structure do not exist;
 - b. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;
 - c. All aquatic and riparian areas that are altered or destroyed shall be restored, replaced, or enhanced according to (7) below, Rehabilitation and Enhancement Plans;
 - d. The structure will be constructed using best management practices;
 - 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.

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) 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.
- 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 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 achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement standards shall apply:

- (1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.
- (2) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.
- (3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.
- (4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
- (5) Riparian areas shall be rehabilitated to their original configuration,

including slope and contour.

- (6) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.
- (7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.
- (8) Rehabilitation and enhancement efforts shall be completed no later than 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
- (9) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet this standard.

6. 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.

7. Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake, and/or buffer zone. They shall satisfy the following standards:

- a. Rehabilitation and enhancement plans shall be primarily the responsibility of the applicant. If the applicant has no practicable alternative, according to E below, Practicable Alternative Test, to locating within the stream, pond, lake, riparian zone, or buffer area, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.
- b. Rehabilitation and enhancement plans shall be prepared by qualified professionals, such as fish or wildlife biologists.
- c. All plans shall include an assessment of the physical characteristics and

natural functions of the affected stream, pond, lake, and/or buffer zone. This assessment shall include hydrology, flora, and fauna.

- d. 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 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. 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 rehabilitation and enhancement plan.
 - (1) The Director may require the owner of the property to sign a contract with the County for enforcement of the Rehabilitation and Enhancement Plan. Such contract shall be executed within thirty (30) days after approval is granted, provided, however, that the Director may grant time extensions due to practical difficulty. The Director shall have the authority to execute such contracts on behalf of the County. If a contract is required, no building permit shall be issued for the use covered by the application, nor construction commence, until the executed contract is recorded on the real property records of Wasco County and filed in the County Journal. Such contract shall not restrict the power of subsequent administrative action, with or without conditions. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by Wasco County by appropriate action in law or suit in equity for the benefit

of public health, safety and welfare.

- (2) A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Court 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 sensitive wildlife areas and sites.
- b. "Sensitive wildlife areas" means the 17 land and water areas that are included in the wildlife inventory of the Management Plan.

"Sensitive wildlife sites" is used here in a generic sense to refer to sites that are used by species that are:

- (1) Listed as endangered or threatened pursuant to federal or state endangered species acts,
- (2) Listed as sensitive by the Oregon Fish and Wildlife Commission, or
- (3) Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

- c. Enhance wildlife habitat that has been altered or destroyed by past uses.

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 shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.
- b. New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson et. al. 1990), as summarized below, unless the project applicant demonstrates the need for an alternative design:
 - (1) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
 - (2) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

- (3) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.
- (4) Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
- c. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.
- 3. Uses and Activities Permitted within 1,000 feet of a Sensitive Wildlife Area or Site.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space), uses and activities authorized by the applicable designation may be allowed within 1,000 feet of a sensitive wildlife area or site subject to (4) below, Site Plans and Field Surveys, the remaining applicable sections this Chapter and the following criteria:

- a. Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed by the Oregon Department of Fish and Wildlife.
 - (1) The approximate locations of sensitive wildlife areas and sites are shown in the wildlife inventory.
 - (2) State wildlife biologists will help to determine if a new use would adversely affect a sensitive wildlife area or site.
- b. The Site plan shall be submitted to the Oregon Department of Fish and Wildlife by the County. State wildlife biologists will review the site plan and their field survey records. They will:
 - (1) Identify/verify the precise location of the wildlife area or site,
 - (2) Ascertain whether the wildlife area or site is active or abandoned,
 - (3) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons, and
 - (4) In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed

- use.
- c. The following factors may be considered when site plans are reviewed:
 - (1) Biology of the affected wildlife species.
 - (2) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron.
 - (3) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - (4) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.
 - (5) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.
 - d. The wildlife protection process may terminate if the County, in consultation with the state wildlife agency, determines:
 - (1) The sensitive wildlife area or site is not active, or
 - (2) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.
 - e. If the County, in consultation with the State wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses:
 - (1) A letter shall be sent to the project applicant that describes the effects and measures needed to eliminate them.
 - (2) If the project applicant accepts these recommendations, the County will incorporate them into its development review order, and
 - (3) The wildlife protection process may conclude.
 - f. If the County, in consultation, with Oregon Department of Fish and Wildlife, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through

site plan modifications or project timing, the project applicant shall prepare a wildlife management plan as specified in 5, Wildlife Management Plans.

- g. The County shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife.

- (1) The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the County Planning Office.

- (2) The local government shall record and address any written comments submitted by the state wildlife agency in its development review order.

- h. 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.

- (1) If the final decision contradicts the comments submitted by the state wildlife agency, the County shall justify how it reached an opposing conclusion.

- (2) 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.

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 sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

- b. A field survey to identify sensitive wildlife areas or sites shall be required for:

- (1) Land divisions that create four or more parcels;

- (2) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

- (3) Public transportation facilities that are outside improved rights-of-way;

- (4) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

- (5) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.
- c. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

5. Wildlife Management Plans

Wildlife management plan shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her 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 sensitive wildlife area or site, the Forest Service has agreed to provide assistance in the preparation of the plan, to the greatest extent possible.
- c. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.
- d. The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.
- e. A wildlife buffer zone shall be employed. It shall be wide enough to ensure

that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

- f. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect scenic wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following standards shall apply:
 - (1) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.
 - (2) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.
- g. Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones.
 - (1) When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.
 - (2) When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required.
 - (3) Enhancement shall achieve no net loss of the integrity of the wildlife area or site.
 - (4) Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.
- h. The project applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists.
 - (1) It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement

actions.

- (2) At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful.
- (3) In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement standards.

D. Rare Plants

1. Purpose

- a. Ensure that new uses do not adversely affect plant species 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) listed as endangered or threatened on list (1) or list (2), by the Oregon Natural Heritage Program. (For brevity, these species will be referred to as "sensitive" plant species.)
- b. Encourage the protection of plant species that are classified "Review" {list 3}, or "Watch" {list 4} by the Oregon Natural Heritage Program.
- c. Enhance the natural habitat of rare plant species.

2. Sensitive Plant Buffer Zones:

- a. A 200 foot buffer zone shall be maintained around sensitive plants. Buffer zones shall remain in an undisturbed, natural condition.
- b. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, manmade features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.
- c. Requests to reduce buffer zones shall be considered if a professional botanist or plant ecologist hired by the project applicant:
 - (1) identifies the precise location of the sensitive plants,
 - (2) describes the biology of the sensitive plants, and
 - (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.
 - (4) All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report

shall include detailed maps and photographs.

- d. The County shall submit all requests to reduce sensitive plant species buffer zones to the Oregon Natural Heritage Program.

- (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 local government shall justify how it reached an opposing conclusion.

3. Uses and Activities Permitted Within 1,000 Feet of a Sensitive Plant

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) uses and activities authorized by the applicable zoning designation may be allowed within 1,000 feet of a sensitive plant subject to (4) below, Site Plans and Field Surveys, the remaining applicable sections of this Chapter and the following criteria:

- a. Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed by the Oregon Natural Heritage Program.
 - (1) The approximate locations of sensitive plants are shown in the rare plant species inventory.
 - (2) State heritage staffs will help determine if a new use would invade the buffer zone of sensitive plants.
- 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 local government, in consultation with the State Heritage Program, determines that the proposed use would be located outside of a sensitive plant buffer zone.
- d. New uses shall be prohibited within sensitive plant species buffer zones, except for those uses that are allowed outright.
- e. If a proposed use must be allowed within a sensitive plant buffer zone in accordance with Chapter 6, Variances the project applicant shall prepare a protection and rehabilitation plan that complies with the standards in (7) below, Protection and Rehabilitation Plans.
- f. The County shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon Natural Heritage Program.
 - (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.

4. Site Plans and Field Surveys

- a. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- b. A field survey to identify sensitive plants 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.
 - (2) Field surveys shall identify the precise location of the sensitive plants and delineate a 200 foot buffer zone.
 - (3) The results of a field surveys shall be shown on the site plan map.

5. Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance granted according to Chapter 6. All plans shall meet the following guidelines:

- a. Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist.
- b. The primary responsibility and cost of preparing protection and rehabilitation plans shall be borne by the applicant. Recognizing the limited number of situations in which an applicant will be forced to locate within a sensitive plant buffer area, the Forest Service has agreed to provide assistance in the preparation of these plans, to the greatest extent possible.
- c. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.
- d. Sensitive plants that will be destroyed 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. Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control.
 - f. Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.
 - g. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.
 - h. Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:
 - (1) Describe the biology of sensitive plant species that will be affected by a proposed use.
 - (2) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.
 - (3) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.
 - (4) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the local government 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, or plant areas and sites; and
2. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, 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.
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.
5. The ecological value of the wetland, stream, pond, lake, or riparian area and probable effect on public health and safety, fish, plants, and wildlife.

